

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Vonzell Scott, Sr.,

Plaintiff,

vs.

Case Number 2020 CV 6829

Wendy's Properties, LLC, et al.

Defendants.

Video Deposition of S. Ronald Hauri

Wednesday

March 30th, 2022

-at-

Keefe, Campbell, Biery & Associates

118 North Clinton Street

Suite 300

Chicago, Illinois 60661

**PLAINTIFF'S
EXHIBIT**

Page 2		Page 4	
1	APPEARANCES	1	THE RECORDER: Good afternoon. We are now on
2		2	the record, Wednesday, March 30th, 2022. The time is
3	For the Plaintiff:	3	1:04 p.m. We are located at Keefe, Campbell, Biery &
4		4	Associates, at 118 North Clinton Street, Suite -- Suite
5	Michael K. Muldoon	5	300, Chicago, Illinois 60661, for a video-recorded
6	Muldoon & Muldoon	6	deposition in the matter of Vonzell Scott, Sr. versus
7	111 West Washington Street	7	Wendy's Properties, LLC, et al., Case No. 20 CV 6829,
8	Suite 1500	8	before the Northern District of Illinois, Eastern
9	Chicago, Illinois 60602	9	Division. 0:00:32
10		10	This deposition is being recorded by In
11	For the Defendant:	11	Demand Court Reporting, located at 216 South Jefferson
12		12	Street, Chicago, Illinois 60662 (sic), on behalf of the
13	Bradley J. Smith	13	Defendant and being taken at the instance of the
14	Keefe, Campbell, Biery & Associates, LLC	14	Defendant. The witness today is S. Ronald Hauri. 0:00:44
15	118 North Clinton Street	15	Mr. Hauri, my name is Allyson Pritchard. I'm
16	Suite 300	16	a notary public and the video recording device operator
17	Chicago, Illinois 60661	17	for this deposition. At this time, would you please
18		18	raise your right hand for the oath? 0:00:52
19		19	(Witness sworn)
20		20	THE RECORDER: Thank you.
21		21	Would the attorneys please state their
22		22	appearances for the record? 0:01:01
23		23	MR. MULDOON: Michael Muldoon for the
24		24	Plaintiff.
25		25	MR. SMITH: Bradley Smith on behalf of
Page 3		Page 5	
1	EXAMINATION INDEX	1	Defendant. 0:01:06
2		2	THE RECORDER: That completes the required
3	DIRECT CROSS REDIRECT RECROSS	3	information, and we can proceed.
4	5 158 163 --	4	DIRECT EXAMINATION
5		5	BY MR. SMITH:
6	CERTIFIED QUESTION	6	Q. Mr. Hauri, can you state and spell your name
7		7	for the record today? 0:01:11
8	PAGE NUMBER LINE NUMBER	8	A. S. Ronald Hauri. H-A-U-R-I.
9	53 21	9	Q. And this deposition's going to be taken
10		10	pursuant to the Federal Rules of Civil Procedure, the
11	EXHIBIT INDEX	11	Federal Rules of Evidence, applicable Local Rules in
12		12	the Northern District of Illinois. 0:01:26
13	EXHIBIT PAGE NUMBER	13	I know you've given multiple depositions in
14	1 - 9	14	the past. Correct?
15	2 - 47	15	A. Yes.
16	3 - 51	16	Q. And I'm assuming you know the rules of how
17	4 - 115	17	depositions proceed. 0:01:34
18		18	A. Yes.
19		19	Q. As a part of that, you'll make sure that you
20		20	understand my question -- all my questions today before
21		21	you answer them.
22		22	A. Yes. 0:01:44
23		23	Q. If you don't understand one or you don't hear
24		24	one, let me know. Okay?
25		25	A. I will. 0:01:49

2 (Pages 2 to 5)

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1 Q. All right. Mr. Hauri, can you define -- I'd
 2 -- I'd like you to define a -- a military -- I know you
 3 have some police background. 0:02:06
 4 I'd like you to define military or combat
 5 style attack or execution on an individual for me.
 6 That sort of phrase. 0:02:14
 7 A. Well, it depends upon -- it depends upon what
 8 branch of the military we're talking about. But in
 9 short, something that may well be pre-trained and --
 10 and even pre-planned to -- depending on the target, to
 11 eliminate or capture the target. 0:03:05
 12 Q. And with a -- that -- that sort of definition
 13 in mind --
 14 THE RECORDER: Sorry. 0:03:15
 15 MR. SMITH: It's okay.
 16 BY MR. SMITH:
 17 Q. With that definition in mind as pre-planned
 18 or pre-trained to eliminate or execute a target, can
 19 that also happen through private training of some sort? 0:03:34
 20 A. Oh, of course.
 21 Q. Can that happen -- can that be learned from
 22 gang or other violence?
 23 A. Yes. 0:03:44
 24 Q. Okay. And I understand in your background,
 25 you've -- you've -- you've -- you've worked with a lot

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1 are different reasonable standards that apply to those
 2 two as far as securing areas or preventing criminal
 3 activity. 0:06:04
 4 A. I suppose. You -- you're -- you're not
 5 looking at criminal activity necessarily in -- in a
 6 conflict zone. 0:06:19
 7 You -- you have in a conflict zone usually
 8 some sort of quasi-military or full-on military
 9 combatants on either side. So it -- it's not an issue
 10 of -- when -- when you say criminal activity, we don't
 11 look at something like that as the bad guys are going
 12 to come in and do an armed robbery. 0:06:51
 13 Or commit some -- some other type of regular
 14 crime against their target. So usually it involves an
 15 operation that's designed to take over the objective
 16 and even kill or capture the people that are holding
 17 that particular objective. 0:07:27
 18 Q. Okay. And can you define one other thing for
 19 me? I want to know the definition -- excuse me -- the
 20 definition of reasonably foreseeable, your definition
 21 as it relates to this case. 0:07:40
 22 A. My definition would be that reasonable means
 23 that you'll take steps to mitigate what can be
 24 anticipated.
 25 Q. And what is foreseeable? 0:08:10

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1 of Fortune 500 company -- companies. You've also
 2 worked in other countries. 0:03:59
 3 Is that fair as far as security issues?
 4 A. Yes.
 5 Q. And you've worked in war zones? 0:04:05
 6 A. Conflict zones. Yes.
 7 Q. Okay. And in those zones, tell me a little
 8 bit about how you attempted to advise on security
 9 issues to your clients in those types of zones. 0:04:20
 10 A. Well, you would start with certainly an
 11 assessment, a situation assessment, of what's going on
 12 in your environment. And use that information against
 13 what you're planning to do, what you need to do. 0:04:49
 14 What -- what is it that you want to
 15 accomplish.
 16 Q. Mm-hmm. And in the past, have you secured
 17 certain perimeters for clients in conflict zones? 0:04:58
 18 A. Thinking back. We were involved when I
 19 worked for Amoco in creating a drilling area for oil in
 20 Colombia. 0:05:27
 21 And we utilized the Colombian military to
 22 build a -- a platform basically to support the
 23 operations there.
 24 Q. And as far as the reasonable standards for a
 25 combat zone versus a normal non-conflict area, there

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1 A. Well foreseeable is based on elements such as
 2 prior history of a location and an understanding of the
 3 environment where the location is. Or the facility, if
 4 you will, is located. 0:08:32
 5 And then the operational aspects of that
 6 business. And what it's there to do.
 7 (Exhibit No. 1 marked for identification.)
 8 BY MR. SMITH:
 9 Q. Okay. I've marked for you what's been marked
 10 -- or I've marked Hauri Exhibit 1 for you. 0:08:56
 11 MR. MULDOON: Thank you.
 12 BY MR. SMITH:
 13 Q. What is it?
 14 A. Plaintiff's Rule 26 Disclosures to Defendant. 0:09:07
 15 Q. Okay. And towards the end of that document,
 16 I believe your curriculum vitae Professional Experience
 17 is there on page 17 of that document. 0:09:20
 18 A. Excuse me. Yes. I see the --
 19 Q. Is there anything that needs to be changed
 20 today as we sit here in that Professional Experience
 21 document that you've submitted? 0:09:37
 22 A. I don't believe so.
 23 Q. I want to talk about your past. You were a
 24 -- a -- you worked as a -- a police chief in Waukegan? 0:09:53
 25 A. Correct.

3 (Pages 6 to 9)

Page 10	Page 12
<p>1 Q. How many years were you a police chief in 2 Waukegan for? 3 A. Three and a half, I believe. 0:10:01 4 Q. And why did you leave that position? 5 A. A medical issue. 6 Q. Okay. And what was your next position after 7 that? 0:10:15 8 A. I was the manager of protection services for 9 Amoco. 10 Q. And is that -- in each role, you were in the 11 private sector after being a police chief. Is that 12 fair? 0:10:36 13 A. Yes. 14 Q. When did you leave the -- the -- the public 15 sector? 16 A. 1988. 17 Q. Is that the last time you did any public 18 sector police work? 0:10:51 19 A. Yes. 20 Q. When you were in the private sector, 21 generally, what did your positions -- what were your 22 duties in those positions? 23 A. To manage a corporate security operation. 24 All things related to what's usually -- usually termed 25 as corporate security. 0:11:34</p>	<p>1 criminal act is preventable. Correct? 2 A. Correct. 0:13:33 3 Q. Not every attempted homicide is preventable. 4 Correct? 5 A. Yes. 6 Q. Homicides that relate to targeted or combat 7 style targeted issues are difficult to pre- -- prevent. 8 Correct? 0:14:01 9 A. They're more difficult than others. Yes. 10 Q. Why is that? 0:14:09 11 A. Because you have a -- a -- a different 12 motivation, if you will. Oftentimes predators, 13 criminal predators, will work very hard at defeating 14 the mitigation strategies. 0:14:33 15 As opposed to the casual criminal, if you 16 will, who might walk into an opportunity to commit a 17 crime. 18 Q. So it's -- it's harder -- it -- tell me if 19 this is a fair statement. 0:14:52 20 It's harder to prevent a targeted combat 21 style homicide than it is to prevent normal criminal 22 activity such as robbery, burglary, that sort of thing. 0:15:08 23 MR. MULDOON: Objection -- 24 BY MR. SMITH: 25 Q. Fair?</p>
Page 11	Page 13
<p>1 So that could include assessing locations and 2 making recommendations for target hardening and 3 mitigating against known risks. 0:12:01 4 I dealt with human resources departments, 5 legal departments, police departments, a -- a -- a 6 pretty wide variety of interests, if you will. 0:12:16 7 Q. Okay. 8 A. To -- in order to protect the assets of the 9 corporation, including its customers, its employees, 10 etc. 11 Q. Are some criminal acts unpreventable? 0:12:37 12 MR. MULDOON: Objection as to broad and 13 speculation. 14 Go ahead. 15 THE WITNESS: There are no guarantees that -- 16 and when we -- when we look at -- at the reasonableness 17 issue, there are no guarantees. 0:12:57 18 There's -- nothing is going to be 100 percent 19 perfect. It's not perfection. It's -- it's 20 reasonableness. 0:13:04 21 Did you do the right thing. As opposed to 22 can you make it perfect. So as we all know, there are 23 no guarantees in life. And that applies here as well. 0:13:20 24 BY MR. SMITH: 25 Q. And I guess what I'm getting at is, not every</p>	<p>1 MR. MULDOON: -- relevance. 2 THE WITNESS: Well, I -- I wouldn't say it's 3 necessarily harder. But it's more complicated. 0:15:21 4 BY MR. SMITH: 5 Q. And I don't want to quibble (phonetic) over 6 the definition of harder versus complicated. But 7 complicated means it is more difficult to prevent a 8 combat style targeted homi- -- attempted homicide as 9 opposed to your average everyday crime like a burglary 10 or robbery. Correct? 0:15:41 11 A. Well, like every -- I -- I -- 12 MR. MULDOON: I'll just object to asked and 13 answered. 0:15:48 14 THE WITNESS: The -- the -- the offender in 15 what you're asking -- a lot of the success of the 16 offender depends on their capabilities and their 17 motivation. 0:16:13 18 How strongly are they motivated. And usually 19 a military style attack on someone indicates there's 20 more planning, if you will. 0:16:30 21 And you have to mitigate against that. But 22 if -- if the bad guys starts to commit a crime in a 23 combat style method and he's not very good at it, then 24 it's easier to defeat. 0:16:50 25 So it really depends on the level of training</p>

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<p style="text-align: right;">Page 14</p> <p>1 and motivation that the offender has.</p> <p>2 BY MR. SMITH:</p> <p>3 Q. A targeted pre-planned military combat style</p> <p>4 attempted homicide is more difficult to prevent than a</p> <p>5 -- a normal criminal act such as burglary or robbery.</p> <p>6 Correct? 0:17:22</p> <p>7 MR. MULDOON: Objection. That's been asked</p> <p>8 and answered twice now and it's also a objection as to</p> <p>9 -- as to relevance.</p> <p>10 BY MR. SMITH:</p> <p>11 Q. You can answer. 0:17:28</p> <p>12 A. Not necessarily correct. No.</p> <p>13 Q. Why is that, sir?</p> <p>14 A. Well, because as I said, it depends on their</p> <p>15 capability and their motivation. 0:17:40</p> <p>16 Q. Have you seen news of federal judges being</p> <p>17 targeted at their homes both in New Jersey and in</p> <p>18 Illinois in the past ten years --</p> <p>19 MR. MULDOON: Objection -- 0:17:55</p> <p>20 BY MR. SMITH:</p> <p>21 Q. -- with --</p> <p>22 MR. MULDOON: -- relevance.</p> <p>23 BY MR. SMITH:</p> <p>24 Q. -- targeted killings?</p> <p>25 A. Yes. 0:18:00</p>	<p style="text-align: right;">Page 16</p> <p>1 particular goal or premeditation, it is more difficult</p> <p>2 to prevent it. 0:18:51</p> <p>3 Is that a fair statement?</p> <p>4 MR. MULDOON: Objection. Relevance.</p> <p>5 THE WITNESS: No, not really. 0:18:59</p> <p>6 BY MR. SMITH:</p> <p>7 Q. Why, sir?</p> <p>8 MR. MULDOON: Same objection.</p> <p>9 THE WITNESS: There are certain security</p> <p>10 measures that some people have to take. And they may</p> <p>11 not know about a specific individual who wants to</p> <p>12 commit a homicide against them. 0:19:29</p> <p>13 Yet they'll still plan their security program</p> <p>14 considering that that could be an outcome.</p> <p>15 BY MR. SMITH:</p> <p>16 Q. And in doing so, usually that involves either</p> <p>17 keeping yourself away from the predator criminal.</p> <p>18 Fair? 0:19:53</p> <p>19 MR. MULDOON: Objection. Relevance.</p> <p>20 THE WITNESS: Well, you can't keep yourself</p> <p>21 away from him if you don't know him. Or her. 0:19:59</p> <p>22 BY MR. SMITH:</p> <p>23 Q. But in generally speaking, that would be one</p> <p>24 way to prevent the predator criminal from attacking you</p> <p>25 in a homicidal fashion. Fair? 0:20:10</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. Right in our own Northern District of</p> <p>2 Illinois. Fair?</p> <p>3 MR. MULDOON: Objection. Relevance. 0:18:05</p> <p>4 THE WITNESS: Yes.</p> <p>5 BY MR. SMITH:</p> <p>6 Q. And that attack was successful. Yes?</p> <p>7 MR. MULDOON: Objection. Relevance. 0:18:10</p> <p>8 THE WITNESS: Yes. As I recall.</p> <p>9 BY MR. SMITH:</p> <p>10 Q. And the one in New Jersey was at least</p> <p>11 successful in killing a son of a federal judge. 0:18:18</p> <p>12 MR. MULDOON: Objection --</p> <p>13 BY MR. SMITH:</p> <p>14 Q. Fair?</p> <p>15 MR. MULDOON: -- relevance.</p> <p>16 THE WITNESS: I believe so. 0:18:21</p> <p>17 BY MR. SMITH:</p> <p>18 Q. And those circumstances involved targeted</p> <p>19 style killings. Correct?</p> <p>20 MR. MULDOON: Objection. Relevance. 0:18:26</p> <p>21 THE WITNESS: I believe so. Yes.</p> <p>22 BY MR. SMITH:</p> <p>23 Q. Okay. When the predator or combat style</p> <p>24 criminal is pre-planning an -- a -- a homicide goal, if</p> <p>25 the other individual does not know about that</p>	<p style="text-align: right;">Page 17</p> <p>1 MR. MULDOON: Objection. Relevance.</p> <p>2 BY MR. SMITH:</p> <p>3 Q. If you were never in contact with them or if</p> <p>4 you stayed away from them? 0:20:16</p> <p>5 MR. MULDOON: Same objection.</p> <p>6 THE WITNESS: But that concludes that you</p> <p>7 know who that person is.</p> <p>8 BY MR. SMITH:</p> <p>9 Q. Isn't that why witnesses sometimes go into</p> <p>10 witness protection programs? 0:20:28</p> <p>11 MR. MULDOON: Objection --</p> <p>12 THE WITNESS: Yes.</p> <p>13 MR. MULDOON: -- relevance.</p> <p>14 BY MR. SMITH:</p> <p>15 Q. And so putting space between yourself and the</p> <p>16 predator criminal where they can't find you --</p> <p>17 sometimes that will prevent a -- a -- a pre-planned</p> <p>18 homicide attempt. Fair? 0:20:40</p> <p>19 MR. MULDOON: Objection. Relevance.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MR. SMITH:</p> <p>22 Q. Also, in line with what your answer was a</p> <p>23 second ago, the other thing that some Americans do to</p> <p>24 prevent homicides are to arm themselves in self</p> <p>25 defense. Fair? 0:20:59</p>

5 (Pages 14 to 17)

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<p>1 MR. MULDOON: Objection. Relevance.</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MR. SMITH:</p> <p>4 Q. That's one of the ultimate ways to attempt to</p> <p>5 prevent a pre-planned predator criminal's homicide</p> <p>6 against you. Is that fair? 0:21:11</p> <p>7 MR. MULDOON: Objection. Relevance.</p> <p>8 BY MR. SMITH:</p> <p>9 Q. If you know it's coming. 0:21:15</p> <p>10 A. If -- if --</p> <p>11 MR. MULDOON: Same --</p> <p>12 THE WITNESS: -- you know --</p> <p>13 MR. MULDOON: -- objection.</p> <p>14 THE WITNESS: -- it's coming.</p> <p>15 THE RECORDER: I'm sorry. Did you say same</p> <p>16 objection? 0:21:20</p> <p>17 MR. MULDOON: Give me a second, okay, before</p> <p>18 your answer.</p> <p>19 BY MR. SMITH:</p> <p>20 Q. And criminal predators. Can you describe for</p> <p>21 me what you would define as a -- a -- I think we've</p> <p>22 been talking about in the form of an attempted</p> <p>23 homicide, but a criminal predator in that sort of</p> <p>24 definition of a -- a criminal homicide type of person? 0:21:41</p> <p>25 What would you define that as a -- a criminal</p>	<p>1 BY MR. SMITH:</p> <p>2 Q. And why do they do that? 0:23:02</p> <p>3 MR. MULDOON: Objection. Relevance.</p> <p>4 THE WITNESS: Because they want to be</p> <p>5 successful at what they're planning. 0:23:10</p> <p>6 BY MR. SMITH:</p> <p>7 Q. And for a criminal predator attempting a</p> <p>8 homicide on a victim, is there any variable time that</p> <p>9 you consider stalking -- that they would stalk that</p> <p>10 person that generally from your background, knowledge,</p> <p>11 experience -- is there a certain amount of time? 0:23:31</p> <p>12 How long do they take? What do they do to</p> <p>13 stalk people?</p> <p>14 MR. MULDOON: Objection. Relevance. 0:23:35</p> <p>15 THE WITNESS: It all depends on the</p> <p>16 individual and their ability to carry out the stalking.</p> <p>17 And the availability of the potential victim to be</p> <p>18 stalked. Or not, as the case may be. 0:23:59</p> <p>19 BY MR. SMITH:</p> <p>20 Q. Are -- sometimes do criminal predators stalk</p> <p>21 their victims in vehicles or cars?</p> <p>22 MR. MULDOON: Objection. Relevance. 0:24:11</p> <p>23 THE WITNESS: Yes.</p> <p>24 BY MR. SMITH:</p> <p>25 Q. Okay. Hang on just one second.</p>
Page 19	Page 21
<p>1 predator?</p> <p>2 MR. MULDOON: Objection. Relevance. 0:21:46</p> <p>3 THE WITNESS: Someone who has a grudge</p> <p>4 against an individual or a company. It could be</p> <p>5 someone who is mentally deranged. 0:22:07</p> <p>6 There are a lot of motives out there that --</p> <p>7 that could be assigned to that kind of activity.</p> <p>8 BY MR. SMITH:</p> <p>9 Q. It's -- it's one of our biggest fears, right,</p> <p>10 of somebody mentally deranged coming in and doing</p> <p>11 something crazy; is that fair? 0:22:27</p> <p>12 MR. MULDOON: Objection. Relevance.</p> <p>13 THE WITNESS: What do you mean by our? 0:22:32</p> <p>14 BY MR. SMITH:</p> <p>15 Q. I'll strike the question.</p> <p>16 Do criminal predators sometimes stalk the</p> <p>17 victims prior to attempting to commit a criminal</p> <p>18 homicide? 0:22:44</p> <p>19 MR. MULDOON: Objection. Relevance.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MR. SMITH:</p> <p>22 Q. Do -- is that sometimes indicated in their</p> <p>23 pre-planning efforts, the stalking of the victim? 0:22:56</p> <p>24 MR. MULDOON: Same objection.</p> <p>25 THE WITNESS: Yes.</p>	<p>1 MR. SMITH: Can we go off the record, please?</p> <p>2 THE RECORDER: Going off record at 1:28 p.m. 0:24:20</p> <p>3 (Off the record)</p> <p>4 THE RECORDER: Back on record at 1:29 p.m.</p> <p>5 BY MR. SMITH:</p> <p>6 Q. So just -- just going back to that question.</p> <p>7 I'm sorry if I'm repeating it. I don't remember, but. 0:24:31</p> <p>8 Do criminal predators sometimes stalk their</p> <p>9 victims in cars, vehicles?</p> <p>10 MR. MULDOON: Objection. Relevance and asked</p> <p>11 and answered. 0:24:42</p> <p>12 THE WITNESS: Yes.</p> <p>13 BY MR. SMITH:</p> <p>14 Q. And how do they do that? Do they remain</p> <p>15 behind the victim and try to watch where they're going</p> <p>16 and wait for an opportune time? 0:24:50</p> <p>17 Or what does -- what does a criminal predator</p> <p>18 usually do in that situation?</p> <p>19 MR. MULDOON: Objection --</p> <p>20 BY MR. SMITH:</p> <p>21 Q. To be -- 0:24:54</p> <p>22 MR. MULDOON: -- relevance.</p> <p>23 BY MR. SMITH:</p> <p>24 Q. -- successful.</p> <p>25 MR. MULDOON: Same objection.</p>

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1 THE WITNESS: Well, certainly I think what
2 you're describing is -- is that they follow their
3 victim. And yes, that happens. 0:25:14
4 But there are other ways to stalk the victim,
5 whether it's electronically through social media or
6 whether it's going to their place of work or worship,
7 places that the stalker knows that they go to, or could
8 be in their office. Or place of work. 0:25:45
9 BY MR. SMITH:
10 Q. Do predator -- criminal predators sometime
11 wait for the opportune moment to attempt -- I -- now, I
12 know that generally, but I'm talking about in a
13 homicide fashion. 0:26:02
14 Do they want for an opportune time to attempt
15 the homicide?
16 MR. MULDOON: Objection. Relevance.
17 THE WITNESS: I suppose they do sometimes.
18 Other times, they'll find an opportunity. 0:26:15
19 They'll literally stumble across an
20 opportunity to commit the crime. And -- and just to --
21 to more clearly define this, you know, we're -- we're
22 using this term criminal predator. 0:26:30
23 Those aren't just stalkers. Criminal
24 predators are people who prey upon members of society
25 and oftentimes operate on an opportunity basis. 0:26:50

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1 Something comes up, a target comes up that
2 they think is weak, and they'll take advantage of it.
3 BY MR. SMITH:
4 Q. And in that same fashion, sometimes when the
5 opportunity's right, or not right, they'll still take
6 advantage of it. Fair? 0:27:10
7 A. Yes.
8 Q. Want to get back into your experience. When
9 you were in the private sector, when did you stop
10 working for businesses and start working more in the
11 consulting and expert witness area? 0:27:37
12 MR. MULDOON: Meaning -- objection. That
13 assumes facts that are --
14 BY MR. SMITH:
15 Q. Well, did that happen? 0:27:43
16 A. Well, I left the corporate world as an
17 employee from time to time. When I was between
18 positions, I would do some consulting for different
19 corporations. 0:27:59
20 And then in -- oh, I think it was about 2007,
21 I went into consulting on a full-time basis. And my
22 litigation work began some years after that. Several
23 years, I'd say. 0:28:35
24 Q. Do you know when you started doing litigation
25 work?

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1 A. I actually did my first case I think in 1995.
2 Q. And have you been doing cases ever since the
3 year 1995? 0:28:53
4 A. Off and on.
5 Q. Are they usually -- what -- what are your --
6 probably your highest percentage of cases? Bars,
7 nightclubs? 0:29:01
8 A. No.
9 MR. MULDOON: For -- I'm sorry. For which?
10 MR. SMITH: Since he's been working in the
11 litigation field. 0:29:10
12 MR. MULDOON: Okay. But he also does
13 consulting. So --
14 MR. SMITH: Yeah.
15 MR. MULDOON: -- you gotta just, you know,
16 make sure you're clear. 0:29:13
17 BY MR. SMITH:
18 Q. Since you've been in the litigation field in
19 1995, has your highest percentage of cases been factual
20 circumstances involving bars, nightclubs, places that
21 serve alcohol? 0:29:28
22 A. I really don't know because I -- I -- I
23 haven't -- I haven't counted them to -- to see where
24 the -- the most work lies. I would have to guess at it
25 and say it's about even with other types of -- of

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1 cases. 0:29:55
2 Q. What other types of cases have you had
3 besides this particular restaurant case that we're
4 talking about today? Factually. Settings. 0:30:05
5 A. I'm sorry. Can you repeat that?
6 Q. Yeah. What other types of factual settings,
7 you know, have you been on cases for besides this one
8 today we're talking about a restaurant? 0:30:19
9 And I'm -- I'm differentiating restaurants
10 versus bars, nightclubs, places that serve alcohol.
11 A. I -- I -- you know, I really don't know. I
12 -- looking back at cases, I've dealt with a number of
13 different venues. 0:30:42
14 Retail operations. Hotels.
15 Q. Okay.
16 A. Housing complexes. Those are just a few of
17 the ones I can think of right off the top of my head. 0:31:02
18 Q. What are the percentage of your cases in
19 homicides or attempted homicides over the years in
20 litigation setting versus burglaries, robberies, stuff
21 like that? Breaking and entering? 0:31:14
22 A. Wow. I -- I really don't know. I just -- I
23 -- I don't track those kinds of descriptors. 0:31:26
24 Q. Mm-hmm. Most of the cases I found -- and
25 you've been in a lot of cases -- seem to be in bars and

7 (Pages 22 to 25)

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<p>1 restaurants or nightclubs. 0:31:33</p> <p>2 Is that a fair statement?</p> <p>3 A. I don't know what you mean by most. But I --</p> <p>4 I know over the years I've done a number of them. 0:31:45</p> <p>5 I just can't tell you how many or -- or guess</p> <p>6 at what the percentage might be.</p> <p>7 Q. Mm-hmm. And a majority of your cases -- have</p> <p>8 they involved alcohol in some form or manner? Or other</p> <p>9 illegal substances. 0:32:10</p> <p>10 A. Again, I -- I don't know. I just haven't</p> <p>11 looked to see what that statistic would be. 0:32:22</p> <p>12 Q. Mm-hmm. Have you ever taught any classes?</p> <p>13 Do you teach any classes currently related to premises</p> <p>14 security or security? 0:32:36</p> <p>15 A. No. And -- and you're saying -- well, I</p> <p>16 assume you're saying --</p> <p>17 Q. Are you a teacher, professor, anything like</p> <p>18 -- 0:32:43</p> <p>19 A. Not --</p> <p>20 Q. -- that?</p> <p>21 A. -- currently.</p> <p>22 Q. When was the last time you taught? 0:32:48</p> <p>23 A. Several years ago.</p> <p>24 Q. Would any of your teachings relate to the</p> <p>25 type of factual circumstances that are in this case? 0:33:02</p>	<p>1 Q. And what did you teach? What was the</p> <p>2 lecture?</p> <p>3 A. The lecture was in regards to Continental</p> <p>4 Africa and the security issues that arise for many of</p> <p>5 those countries and how they deal with those issues. 0:35:28</p> <p>6 Q. And how does Continental Africa relate to</p> <p>7 this case?</p> <p>8 A. It doesn't. You -- your -- I -- I understood</p> <p>9 your question to be have I made any presentations. 0:35:39</p> <p>10 Q. Okay. So that presentation in no way relates</p> <p>11 to this case. Is that fair?</p> <p>12 A. That's fair. 0:35:47</p> <p>13 Q. Other lectures, presentations in the last</p> <p>14 five years?</p> <p>15 A. No. Not that I can think of. 0:35:54</p> <p>16 Q. Have you written any subject matter -- any</p> <p>17 treatises, books, anything on subjects that you believe</p> <p>18 are related to this case?</p> <p>19 A. No. 0:36:05</p> <p>20 Q. I know you have a case list here in -- in</p> <p>21 Exhibit 1 at the end. And you can -- I'll give you the</p> <p>22 page number. 0:36:23</p> <p>23 That is page 27 of 28, so it's the last two</p> <p>24 pages. Do you see that?</p> <p>25 MR. MULDOON: Of Exhibit 1? 0:36:37</p>
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<p>1 A. Well, I taught at Webster University in their</p> <p>2 security administration program. And as part of that,</p> <p>3 conducting risk assessments and managing corporate</p> <p>4 security function. 0:33:26</p> <p>5 I did that for 25 years for Webster.</p> <p>6 Q. When did you teach?</p> <p>7 A. I -- the last time I taught for them was</p> <p>8 probably four, five years ago. 0:33:50</p> <p>9 Q. Were any of the topics caught -- taught in</p> <p>10 that class related to similar opinions, bases that</p> <p>11 you're -- you're touching on in this case? 0:34:03</p> <p>12 A. Yes. In -- in terms of risk assessments and</p> <p>13 mitigation strategies.</p> <p>14 Q. And have you given any webinars, speeches,</p> <p>15 lectures, or anything within the last five years on any</p> <p>16 topics that relate to the things that you're opining on</p> <p>17 in this case? 0:34:32</p> <p>18 A. No.</p> <p>19 Q. Have you given any lectures, presentations,</p> <p>20 webinars, anything within the last five years to an</p> <p>21 audience?</p> <p>22 A. Yes. 0:34:43</p> <p>23 Q. When?</p> <p>24 A. Three or maybe four years ago. I taught a --</p> <p>25 or I -- I presented at Illinois State University. 0:35:01</p>	<p>1 MR. SMITH: Am I in the wrong thing?</p> <p>2 MR. MULDOON: I see it.</p> <p>3 BY MR. SMITH:</p> <p>4 Q. Last two pages.</p> <p>5 A. Yes. 0:36:45</p> <p>6 Q. Okay. And in that case list -- is that your</p> <p>7 case list -- all your cases that you've given</p> <p>8 deposition testimony or trial testimony within the last</p> <p>9 four years? 0:36:55</p> <p>10 A. Yes.</p> <p>11 Q. Are there any that you left out?</p> <p>12 A. No. I don't believe so. 0:37:02</p> <p>13 Q. Okay. The first case there, Michael Parker</p> <p>14 versus Lofton & Lofton Management. What was that case</p> <p>15 about? 0:37:08</p> <p>16 A. That case was about a restaurant employee who</p> <p>17 battered a customer of the restaurant.</p> <p>18 Q. Which side were you on? 0:37:30</p> <p>19 A. Plaintiff.</p> <p>20 Q. Do you recall what kind of opinions you were</p> <p>21 giving there?</p> <p>22 A. No, I don't. 0:37:38</p> <p>23 Q. The second case, Sat -- Saturnino Medrano</p> <p>24 Herrera versus Toju -- Toju Bay.</p> <p>25 (Chime noise in background)</p>

8 (Pages 26 to 29)

<p style="text-align: right;">Page 30</p> <p>1 BY MR. SMITH:</p> <p>2 Q. I'm sorry about that. What was that case? 0:37:51</p> <p>3 A. That was a case of a customer battering</p> <p>4 another customer at the restaurant.</p> <p>5 Q. What side were you on in that case?</p> <p>6 A. Defendant. 0:38:12</p> <p>7 Q. Do you recall what kind of opinions you were</p> <p>8 giving?</p> <p>9 A. No. Not at the moment. 0:38:22</p> <p>10 Q. Was alcohol involved in that?</p> <p>11 A. While they served alcohol there, I don't</p> <p>12 recall that alcohol was an issue. 0:38:32</p> <p>13 Q. Was that a nightclub or bar? Or was it a</p> <p>14 restaurant?</p> <p>15 A. Restaurant.</p> <p>16 Q. And was it a restaurant that also was a</p> <p>17 nightclub bar? 0:38:39</p> <p>18 A. They had a bar there. I -- I don't believe</p> <p>19 there was a nightclub.</p> <p>20 Q. Do you know what time of day the assault</p> <p>21 happened in that one? 0:38:49</p> <p>22 A. It was in the evening sometime. And that's</p> <p>23 as close as I can get.</p> <p>24 Q. This third case, Woodworth versus Tavco.</p> <p>25 What was the setting of that situation? 0:39:06</p>	<p style="text-align: right;">Page 32</p> <p>1 A. No.</p> <p>2 Q. Saturnino -- this is another Toju Bay case.</p> <p>3 I think it was the retrial. We've already discussed</p> <p>4 that. 0:40:59</p> <p>5 But did you give -- you gave trial testimony</p> <p>6 in that case. Yes?</p> <p>7 A. Yes.</p> <p>8 Q. And you'd already given deposition testimony</p> <p>9 in the case. Fair? 0:41:10</p> <p>10 A. Correct.</p> <p>11 Q. Nothing about the case substance changed,</p> <p>12 right; it was a retrial?</p> <p>13 A. I believe so. 0:41:17</p> <p>14 Q. Patricia Woods, as administrator versus</p> <p>15 Central Park Tap. And what's that case about?</p> <p>16 A. That case involved a customer of the bar and</p> <p>17 package store. The -- the offender in the case</p> <p>18 battered -- ultimately it -- it ended in the death of</p> <p>19 -- of the victim. 0:41:58</p> <p>20 Battered him outside the establishment there.</p> <p>21 Q. Okay. Was that a alcohol issue? 0:42:09</p> <p>22 A. No.</p> <p>23 Q. Which side were you testifying for?</p> <p>24 A. Defendant. 0:42:18</p> <p>25 Q. You with Burke and Burke's office on that?</p>
<p style="text-align: right;">Page 31</p> <p>1 A. A restaurant bar.</p> <p>2 Q. And what type of incident?</p> <p>3 A. It was a disagreement between two customers.</p> <p>4 And one customer battered the other. 0:39:23</p> <p>5 Q. Okay. Do you know what time of day that</p> <p>6 occurred?</p> <p>7 A. It was in the afternoon sometime. 0:39:32</p> <p>8 Q. And was alcohol involved?</p> <p>9 A. I don't recall it being an issue. However, I</p> <p>10 would say they were served alcohol. But I -- I don't</p> <p>11 recall it as being in excess in terms of service. 0:39:54</p> <p>12 Q. Who'd you testify for in that? Or I mean who</p> <p>13 -- whose side were you on?</p> <p>14 A. Plaintiff.</p> <p>15 Q. Did you give trial testimony in that case? 0:40:04</p> <p>16 A. No.</p> <p>17 Q. Did you give trial testimony in any of the</p> <p>18 other cases that we've already discussed?</p> <p>19 A. No. 0:40:11</p> <p>20 Q. Richard Clark and Helen Pecoraro versus</p> <p>21 Village of Grayslake. What's that case about?</p> <p>22 A. That was a police pursuit case. 0:40:35</p> <p>23 Q. And which side did you testify for?</p> <p>24 A. Plaintiff.</p> <p>25 Q. Did you give trial testimony in that case? 0:40:47</p>	<p style="text-align: right;">Page 33</p> <p>1 Or were you -- who were you with? Who was the</p> <p>2 attorneys that hired you on the case? Who were the</p> <p>3 attorneys? 0:42:31</p> <p>4 A. Hmm.</p> <p>5 Q. Heineke and Burke?</p> <p>6 A. It doesn't -- no. No. 0:42:40</p> <p>7 Q. Okay. Did you give any trial testimony in</p> <p>8 that case?</p> <p>9 A. Yes.</p> <p>10 Q. And that rest- -- that particular place was</p> <p>11 -- that was a bar. Correct? 0:43:00</p> <p>12 A. A bar and a liquor store and package store.</p> <p>13 Q. Ryan -- Ryan Lambert versus Bliss? What was</p> <p>14 that case about? 0:43:13</p> <p>15 A. That was a -- a fast food restaurant where a</p> <p>16 customer at the restaurant battered another customer in</p> <p>17 a disagreement outside in the parking lot. 0:43:44</p> <p>18 Q. Who'd you testify for?</p> <p>19 A. Plaintiff.</p> <p>20 Q. Did you give trial testimony in that case? 0:43:52</p> <p>21 A. No.</p> <p>22 Q. What were your opinions in that case? Do you</p> <p>23 remember?</p> <p>24 A. Other than to say it -- it revolved around</p> <p>25 the security issues, I don't remember exactly what the</p>

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1 opinions were. No. 0:44:22
 2 Q. Okay. And the Kirchhoff case below that,
 3 versus the Aragon? What was that about? 0:44:29
 4 A. The Kirchhoff case -- involved three visitors
 5 or -- or customers, if you will, of the -- the Aragon
 6 Ballroom, where they got up into a space in the
 7 building that was just below the roof. 0:44:57
 8 And the -- one of the three young men fell
 9 and died of his injuries, landing on some rebar.
 10 Q. Okay. Which side did you testify for? 0:45:17
 11 A. Plaintiff.
 12 Q. Okay. Pourghobadi versus ARC Hospitality?
 13 What was that about? 0:45:28
 14 A. A guest at a hotel reported that someone
 15 entered her room at night and assaulted her.
 16 Q. Who'd you testify for? 0:45:55
 17 A. Plaintiff. Oh, I'm sorry. Defendant.
 18 Q. And did you give trial testimony? 0:46:01
 19 A. No.
 20 Q. The case below that, Ulisa Howell-Darby.
 21 What was that about?
 22 A. This was a case on a CHA property, where an
 23 offender came to the property and -- and this was 2:00
 24 in the morning, 3:00 in the morning. 0:46:33
 25 He -- there -- there was a -- a gathering of

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1 people, some of whom didn't belong there. And -- and
 2 they got into a disagreement with the security company
 3 that was handling security for the location. 0:46:55
 4 And the deceased shot two of the guards and
 5 was himself shot in the return fire, and he died in the
 6 process. And that was the long and the short of it. 0:47:21
 7 Q. Who'd you testify for? Which side?
 8 A. Defendant.
 9 Q. And did you give trial testimony in that
 10 case? 0:47:31
 11 A. Yes.
 12 Q. Lisa Marie Babich. What's that case about?
 13 A. A hotel case where an employee
 14 surreptitiously brought his girlfriend into the hotel
 15 and -- when he was off duty. And he battered her while
 16 they were in the hotel. 0:48:04
 17 Q. Who'd you testify for?
 18 A. Defendant.
 19 Q. And did you give trial testimony in that
 20 case? 0:48:23
 21 A. No.
 22 Q. Jane Doe versus Joel Berman. What's that?
 23 A. That was a real estate issue where Defendants
 24 rented out part of their house, the upstairs of -- of
 25 -- of the house. It was a two-flat basically. 0:48:48

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1 And the plaintiff in that case was sexually
 2 assaulted and robbed while she was in her apartment.
 3 Q. Which side did you testify for? 0:49:07
 4 A. Defendant.
 5 Q. And did you give trial testimony?
 6 A. No. 0:49:12
 7 Q. Okay. Derek Evitt?
 8 A. That case was a police case involving an
 9 officer who was struck by a tow truck. 0:49:41
 10 Q. Who'd you give testimony for?
 11 A. Defendant.
 12 Q. Trial testimony? 0:49:56
 13 A. No.
 14 Q. Jesse Sala.
 15 A. That involved a nightclub with an individual
 16 who had -- had left the nightclub. And it was right
 17 around closing time. 0:50:23
 18 He tried to get back in, and they were
 19 already in the process of closing. So everyone was
 20 coming out. And he tried to batter his way back
 21 inside. 0:50:41
 22 Didn't take no for an answer. And was -- was
 23 ultimately rejected. And during that process was
 24 injured. 0:50:56
 25 Q. Who'd you testify for?

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1 A. Defendant.
 2 Q. Did you give trial testimony? 0:51:01
 3 A. No.
 4 Q. Was that case resolved?
 5 A. Yes.
 6 Q. Tracy Scott-Blake. 0:51:09
 7 A. That involved a nightclub where three women
 8 that were visiting Chicago went to the nightclub and
 9 were attacked by an individual at the club, both inside
 10 and outside. 0:51:37
 11 Q. Who'd you testify for? What side?
 12 A. The plaintiff.
 13 Q. Did you give trial testimony in the case? 0:51:47
 14 A. No.
 15 Q. Did your opinions in that case relate to
 16 security?
 17 A. Yes. 0:51:57
 18 Q. Did you indicate in a lot of your nightclub
 19 cases that security is -- is -- is even more required
 20 in locations that have -- that serve alcohol and have
 21 dancing? 0:52:10
 22 MR. MULDOON: I'll object to the vagueness of
 23 the question.
 24 BY MR. SMITH:
 25 Q. Are there heightened -- 0:52:19

10 (Pages 34 to 37)

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<p>1 A. I'm --</p> <p>2 Q. -- security measures for restaurant -- or</p> <p>3 excuse me -- for places -- establishments that have</p> <p>4 alcohol and dancing mixed together? 0:52:29</p> <p>5 A. Well, it's -- it's a little bit different. A</p> <p>6 consideration, I suppose. But it's not -- yeah, again,</p> <p>7 I can't -- I -- I -- you know, I can't think of how</p> <p>8 many places that I've been involved with that had</p> <p>9 dancing. 0:52:53</p> <p>10 Q. What about games? Do alcohol and games cause</p> <p>11 heightened issues?</p> <p>12 A. Sometimes. Yes. 0:53:01</p> <p>13 Q. Why?</p> <p>14 A. Well, it's a competitive atmosphere. And,</p> <p>15 you know, whether it's a -- a pool game or darts or</p> <p>16 whatever, there's -- there tends to be the competitive</p> <p>17 atmosphere and sometimes emotions run high over the</p> <p>18 results of the game. 0:53:26</p> <p>19 Q. All right. The Moody case? What was that</p> <p>20 about?</p> <p>21 A. That's a -- an apartment complex. The --</p> <p>22 think back to this one. 0:53:47</p> <p>23 The plaintiff -- plaintiff was attacked by an</p> <p>24 individual who was not supposed to be on the property.</p> <p>25 Q. Okay. And who'd you testify for? 0:54:16</p>	<p>1 that case? I'm assuming it related in some way that</p> <p>2 the -- the bar was not at fault for the -- the</p> <p>3 shooting. 0:56:02</p> <p>4 Is that fair?</p> <p>5 A. Yes.</p> <p>6 Q. And the bar did not have reasonable</p> <p>7 foreseeability to prevent that shooting. Is that fair? 0:56:09</p> <p>8 A. Yes.</p> <p>9 Q. And you would've given that opinion in that</p> <p>10 case because the bar was defending the case and if they</p> <p>11 didn't have reasonable foreseeability of the shooting</p> <p>12 or the attack, then they had no liability. Fair? 0:56:23</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Did you give any trial testimony in</p> <p>15 that case?</p> <p>16 A. No. 0:56:32</p> <p>17 Q. Barriga. What's that case about?</p> <p>18 A. That was a -- a bar restaurant case where a</p> <p>19 customer was attacked in the parking lot of the</p> <p>20 establishment after closing hours by a security person. 0:57:10</p> <p>21 Q. Okay. Who'd you testify for?</p> <p>22 A. Defendant.</p> <p>23 Q. And did you give trial testimony? 0:57:20</p> <p>24 A. No.</p> <p>25 Q. And I'm assuming in that case -- that's</p>
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<p>1 A. Defendant.</p> <p>2 Q. Did you give trial testimony?</p> <p>3 A. No.</p> <p>4 Q. In -- in all your cases that you've --</p> <p>5 litigation you've testified for, have you ever been</p> <p>6 disallowed from testifying by a court? 0:54:27</p> <p>7 A. No.</p> <p>8 Q. Have your opinions ever been barred in any</p> <p>9 proceeding that you've ever testified in?</p> <p>10 A. No. 0:54:33</p> <p>11 Q. Whether by your fault or anyone else's.</p> <p>12 A. No.</p> <p>13 Q. Okay. The Deist case, versus TRKYMIK.</p> <p>14 What's that case about? 0:54:49</p> <p>15 A. That was a shooting at -- at a -- a bar. The</p> <p>16 bar had video poker machines in the bar.</p> <p>17 Q. Did you equate that as to -- was there an</p> <p>18 issue involving the video poker machines in the</p> <p>19 shooting? 0:55:31</p> <p>20 A. Well, that was where it happened, inside the</p> <p>21 establishment. But it -- it didn't -- it didn't cause</p> <p>22 the -- the shooting. 0:55:39</p> <p>23 Q. Okay. Who'd you testify for?</p> <p>24 A. Defendant.</p> <p>25 Q. And what type of opinions did you give in</p>	<p>1 another case where you would've had some opinion that</p> <p>2 the bar restaurant could not reasonably foresee that</p> <p>3 attack or incident or shooting. Is that fair? 0:57:37</p> <p>4 A. No.</p> <p>5 Q. What was your opinion?</p> <p>6 A. My opinion was that --</p> <p>7 MR. MULDOON: I'm sorry. Which case are we</p> <p>8 talking about? 0:57:46</p> <p>9 MR. SMITH: Excuse me?</p> <p>10 MR. MULDOON: Which case are we talking</p> <p>11 about?</p> <p>12 MR. SMITH: This is -- 0:57:49</p> <p>13 THE WITNESS: Gastelum.</p> <p>14 MR. SMITH: -- Barriga.</p> <p>15 MR. MULDOON: No --</p> <p>16 THE WITNESS: No --</p> <p>17 MR. MULDOON: -- you were -- 0:57:53</p> <p>18 THE WITNESS: -- you're -- you're asking me</p> <p>19 about Gastelum.</p> <p>20 BY MR. SMITH:</p> <p>21 Q. Am I?</p> <p>22 A. Yeah. 0:57:59</p> <p>23 Q. Okay. All right. So that was the</p> <p>24 establishment shooting? There was a shooting at that</p> <p>25 establishment? 0:58:05</p>

11 (Pages 38 to 41)

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<p>1 A. No. No. The victim wasn't shot.</p> <p>2 Q. Attacked?</p> <p>3 A. He was attacked and beaten. 0:58:11</p> <p>4 Q. And that was a bar location?</p> <p>5 A. Yeah. A bar restaurant. Primarily --</p> <p>6 Q. And --</p> <p>7 A. -- a restaurant. 0:58:16</p> <p>8 Q. And I'm assu- -- you were for defense?</p> <p>9 A. Correct.</p> <p>10 Q. And you would've had some opinion that the</p> <p>11 restaurant was not liable in that case for the attack.</p> <p>12 Fair? 0:58:26</p> <p>13 A. Yes.</p> <p>14 Q. And part of that opinion would've related to</p> <p>15 reasonable foreseeability of the -- the restaurant bar</p> <p>16 as to the -- the attack -- 0:58:35</p> <p>17 A. No.</p> <p>18 Q. -- fair? What -- what would the opinions</p> <p>19 have related to in that case?</p> <p>20 A. Related to the security contractor and its</p> <p>21 employees. 0:58:43</p> <p>22 Q. So you blamed it on the security contractor</p> <p>23 in that case?</p> <p>24 A. Yes.</p> <p>25 Q. Why?</p>	<p>1 A. Yes. The bar -- the restaurant was sued.</p> <p>2 Q. And as a part of that, you said there was</p> <p>3 never an attack -- I -- my -- my guess is your opinion</p> <p>4 went something like this, and tell me if I'm inaccurate</p> <p>5 or accurate. 1:00:43</p> <p>6 The restaurant had no reasonable</p> <p>7 foreseeability of this attack due to the fact that this</p> <p>8 type of attack had never been expected and the -- it</p> <p>9 never happened in the past and that security guard had</p> <p>10 never behaved in that manner to alert the restaurant to</p> <p>11 the fact that this would occur. 1:01:01</p> <p>12 Is that a good --</p> <p>13 A. No, not entirely. It's --</p> <p>14 Q. Well, the -- 1:01:05</p> <p>15 A. -- is it -- the security guard clearly held a</p> <p>16 grudge against that particular customer. And the</p> <p>17 security guard was part of the company that provided</p> <p>18 security for the restaurant. 1:01:28</p> <p>19 The restaurant had done everything</p> <p>20 appropriately, and no, they could not foresee that this</p> <p>21 accusation had been made and that there was a -- a -- a</p> <p>22 grudge issue between the two men. 1:01:45</p> <p>23 Q. Did you consider that incident a pre-planned</p> <p>24 attack by the security guard?</p> <p>25 A. No. It was clearly an opportunity. One of</p>
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<p>1 A. Because he did it. 0:58:54</p> <p>2 Q. Okay. Did you also say it was -- that the --</p> <p>3 the restaurant bar had no foreseeability of him doing</p> <p>4 that?</p> <p>5 A. Yes. 0:59:05</p> <p>6 Q. And you would've had those opinions in the</p> <p>7 case that the restaurant bar has no reasonable</p> <p>8 foreseeability under the circumstances to prevent the</p> <p>9 security guard from attacking this individual inside</p> <p>10 the bar. Fair? 0:59:20</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And you would've done that because you</p> <p>13 were defending the restaurant bar and reasonable fore-</p> <p>14 -- reasonable foreseeability is the standard related to</p> <p>15 liability in those types of cases. Fair? 0:59:34</p> <p>16 A. No. My opinions related to the relationship</p> <p>17 between the security guard who was the offender in this</p> <p>18 case and the victim. 0:59:49</p> <p>19 Apparently the victim had been accused of</p> <p>20 raping the girlfriend of the security guard. And the</p> <p>21 security guard found the victim at the -- the</p> <p>22 restaurant after closing hours and attacked him there. 1:00:19</p> <p>23 Q. Okay. But you would've had some opinion</p> <p>24 related to reasonable foreseeability in that case</p> <p>25 because the bar was sued. Right? 1:00:29</p>	<p>1 the issues that was never resolved was what the</p> <p>2 customer was doing, where he actually parked on that</p> <p>3 property and why after closing. 1:02:12</p> <p>4 And the security guard being part of the</p> <p>5 company that provided security -- he was a supervisor</p> <p>6 and he was making visits to various and sundry accounts</p> <p>7 that they held -- 1:02:31</p> <p>8 Q. Mm-hmm.</p> <p>9 A. -- to make sure that everybody showed up,</p> <p>10 etc., etc. And when he saw a car parked in a remote</p> <p>11 area of this parking lot after closing hours, he went</p> <p>12 over to check on that car, found someone sitting inside</p> <p>13 the car, and then recognized him to be the individual</p> <p>14 who supposedly raped his girlfriend. 1:02:55</p> <p>15 And that's when the battery took place.</p> <p>16 Q. Okay. John Doe versus Capital Fitness.</p> <p>17 What's that case about? 1:03:05</p> <p>18 A. That case is a -- a case of -- of an</p> <p>19 individual member of the fitness center who claimed</p> <p>20 that he was sexually assaulted in the showers at the</p> <p>21 fitness center. 1:03:31</p> <p>22 Q. Okay. Who'd you testify for in that case?</p> <p>23 A. Defendant. 1:03:37</p> <p>24 Q. Trial testimony?</p> <p>25 A. No.</p>

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<p>1 Q. The last case. Price. What's that about? 1:03:47</p> <p>2 A. That's a -- a restaurant case where an</p> <p>3 individual employee murdered his supervisor on the</p> <p>4 night shift.</p> <p>5 Q. Okay. And what side were you on? 1:04:10</p> <p>6 A. Plaintiff.</p> <p>7 Q. And did you give trial testimony?</p> <p>8 A. No.</p> <p>9 Q. In that case, how did the case resolve? 1:04:20</p> <p>10 A. It did not.</p> <p>11 Q. Was it thrown out on summary judgment?</p> <p>12 A. No. It's still active. 1:04:29</p> <p>13 Q. Still active? Who -- who are the attorneys</p> <p>14 that hired you in that case?</p> <p>15 A. I'm -- I -- I don't -- I don't recall off the</p> <p>16 top of my head. 1:04:47</p> <p>17 Q. And is there a trial set -- date set?</p> <p>18 A. No. Not that I'm aware of at least. 1:04:52</p> <p>19 Q. Okay. When was the case filed?</p> <p>20 A. When was it filed?</p> <p>21 MR. MULDOON: There's a -- 1:05:00</p> <p>22 THE WITNESS: Just by looking at the --</p> <p>23 BY MR. SMITH:</p> <p>24 Q. January. 2018?</p> <p>25 A. -- citation here, it was sometime in '18.</p>	<p>1 A. I do.</p> <p>2 Q. I want to talk a little bit about some of the</p> <p>3 documents you looked at in this case. And we'll get to</p> <p>4 that in a second. 1:06:31</p> <p>5 But first I wanted to talk about your fees in</p> <p>6 this case. I understand from what's been marked in</p> <p>7 front of you as Exhibit 2, that's your response to my</p> <p>8 rider request for documents and materials from your</p> <p>9 expert file? 1:06:46</p> <p>10 A. Yes.</p> <p>11 Q. Is there anything I'm missing from the expert</p> <p>12 file besides the documents I have?</p> <p>13 A. No. 1:06:51</p> <p>14 Q. What about, do you highlight deposition</p> <p>15 transcripts at all?</p> <p>16 A. No.</p> <p>17 Q. Do you take any notes on any deposition</p> <p>18 transcripts? 1:06:58</p> <p>19 A. No.</p> <p>20 Q. Do you have any handwritten notes from</p> <p>21 reading those deposition transcripts?</p> <p>22 A. No. 1:07:03</p> <p>23 Q. How do you keep track of that?</p> <p>24 A. I work on the screen, the computer screen,</p> <p>25 and write my opinions as I go along with the deposition</p>
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<p>1 Yeah. 1:05:09</p> <p>2 Q. And are your opinion -- do your opinions in</p> <p>3 that case relate to reasonable foreseeability?</p> <p>4 A. Yes. 1:05:18</p> <p>5 Q. And why -- why did you have a -- those types</p> <p>6 of opinions in that case?</p> <p>7 A. Well, because they hired the employee without</p> <p>8 doing a background check. 1:05:27</p> <p>9 And then because of -- or -- or during the</p> <p>10 time of his employment, it was apparent that there was</p> <p>11 some discontent on behalf of the employee and he</p> <p>12 ultimately stabbed his supervisor to death. 1:05:58</p> <p>13 Q. Okay. All right. You can set that exhibit</p> <p>14 aside. I am going to mark this as Exhibit 2. 1:06:07</p> <p>15 I'm going to take a quick bathroom break for</p> <p>16 the convenience of all of us.</p> <p>17 A. All right.</p> <p>18 THE RECORDER: Okay. Going off record at</p> <p>19 2:11 p.m. 1:06:13</p> <p>20 (Off the record)</p> <p>21 THE RECORDER: Back on record at 2:18 p.m.</p> <p>22 (Exhibit No. 2 marked for identification.)</p> <p>23 BY MR. SMITH:</p> <p>24 Q. All right. We're back on the record. Do you</p> <p>25 understand you're still under oath? 1:06:22</p>	<p>1 material and -- and other material. 1:07:22</p> <p>2 Q. Okay. So other than your report and those</p> <p>3 materials that I have in that response there, is there</p> <p>4 anything I'm missing?</p> <p>5 A. No, I don't believe so. I think it's</p> <p>6 complete. 1:07:34</p> <p>7 Q. Okay. What treatises or anything else did</p> <p>8 you review to form your opinions in this case?</p> <p>9 A. Protection of Assets, published by ASIS</p> <p>10 International. And the ANSI/ASIS/RIMS risk assessment</p> <p>11 standards. 1:07:56</p> <p>12 Also a -- a QSR web publication regarding</p> <p>13 security at QSR facilities.</p> <p>14 Q. Is that all of it? 1:08:23</p> <p>15 A. Yes.</p> <p>16 Q. Okay. We'll talk about that in a little bit.</p> <p>17 Anything else?</p> <p>18 A. No. Not that I can recall. 1:08:33</p> <p>19 Q. Okay. And you reviewed the surveillance</p> <p>20 video footage?</p> <p>21 A. Yes. 1:08:40</p> <p>22 Q. Okay. I want to talk a little bit about your</p> <p>23 background and experience.</p> <p>24 What is your percentage of testimony for</p> <p>25 plaintiffs versus defendants? 1:08:48</p>

13 (Pages 46 to 49)

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1 A. Overall, I would say it fluctuates between 45
2 percent one way or another. It really depends on the
3 year. 1:09:08
4 Some years I found that I get more calls on
5 defense cases and other times I get more calls on
6 plaintiff cases.
7 Q. And you're still charging -- it looks like in
8 these materials you gave to me, you're still charging
9 295 standard per hour? 1:09:23
10 A. Yes.
11 Q. 395 for court and trial testimony and
12 depositions?
13 A. Deposition and trial. Yes. 1:09:31
14 Q. How much in hours have you put into this case
15 so far?
16 A. I don't know.
17 Q. Well, how do you get paid? 1:09:40
18 A. I -- I -- I haven't -- I -- I haven't made an
19 invoice. I -- I have to go back to look through the
20 times that -- that I spent on the case. 1:10:01
21 Q. How many hours have you spent on this case in
22 total to today's date?
23 A. I don't have an exact figure, but I would say
24 in excess of 20 hours. 1:10:20
25 Q. More than 25 hours?

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1 A. Possibly. Yes.
2 Q. Less than 30 hours? 1:10:28
3 A. Perhaps. I'm not sure.
4 Q. All at the standard or?
5 A. Yes. 1:10:40
6 Q. And you've gotten a \$3,000 retainer in this
7 case?
8 A. Yes.
9 Q. Would you say that's expended now? 1:10:46
10 A. Yes.
11 Q. Will you be generating a -- a bill shortly
12 after this?
13 A. Yes.
14 Q. And you're portal -- portal to portal
15 billing, meaning you -- 1:11:03
16 A. Yes.
17 Q. -- leave your home? You bill until you get
18 back home?
19 A. Yes. 1:11:07
20 Q. And I know you gave me some materials. I've
21 marked them as -- an affidavit as Exhibit 3 here. 1:11:24
22 (Exhibit No. 3 marked for identification.)
23 BY MR. SMITH:
24 Q. It's Exhibit 3 --
25 A. Thank you.

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1 Q. -- I'm handing you. Can you tell me what
2 that is? 1:11:37
3 A. This was an affidavit.
4 Q. Okay. And it's your affidavit? 1:11:49
5 A. Yes.
6 Q. And it's your affidavit and you're attesting
7 to your percentage over the last, what, four years of
8 percentages of litigation versus consulting expert
9 work? 1:12:02
10 MR. MULDOON: Objection. It's five years.
11 MR. SMITH: Five years? Excuse me. 1:12:05
12 THE WITNESS: Yes.
13 BY MR. SMITH:
14 Q. And is that fair and accurate and truthful as
15 to your testimony? 1:12:13
16 A. Yes.
17 Q. Percentages? Do you earn all of your income
18 and living from consulting and litigation expert work? 1:12:20
19 A. Yes.
20 Q. Is there any other income that you receive
21 besides that type of work?
22 A. No. 1:12:28
23 Q. As far as litigation work, how much do you
24 make per year?
25 A. It depends on the year. Um -- 1:12:44

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1 MR. MULDOON: Well, I'm -- I'm going to
2 object to this. You're -- you're -- you're entitled to
3 either -- to know the percentage or the total, and he
4 gave you the percentage, so you're not entitled to the
5 total. 1:12:52
6 MR. SMITH: I'm not asking for his total
7 income. I'm asking for his total percentage income as
8 a -- an expert in litigation per year. 1:13:02
9 MR. MULDOON: I'm -- I'm -- maybe I'm missing
10 something. I'm sorry.
11 MR. SMITH: So --
12 MR. MULDOON: Percentage. He's given you the
13 percentage. 1:13:09
14 BY MR. SMITH:
15 Q. Well, how much do you make -- how much in 20-
16 -- 2021 and 2020 have you made for litigation work each
17 year --
18 MR. MULDOON: Well --
19 BY MR. SMITH:
20 Q. -- individually?
21 (Certified Question)
22 MR. MULDOON: -- I'll -- I'll -- that's what
23 I'm objecting to, Brad. What -- you already know the
24 percentage. Now you're going to find out the total
25 amount. 1:13:26

14 (Pages 50 to 53)

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1 And you can figure out the total. That's not
 2 -- you're not entitled to that. Right? I mean, you
 3 made your choice. 1:13:31
 4 MR. SMITH: No, I don't think so. I think
 5 I'm --
 6 MR. MULDOON: And -- and --
 7 MR. SMITH: -- still entitled to --
 8 MR. MULDOON: -- that's what the case law
 9 that you sent me said, that you're entitled to the
 10 percentage. 1:13:36
 11 MR. SMITH: I disagree. Are you instructing
 12 him not --
 13 MR. MULDOON: Yeah, I'm --
 14 MR. SMITH: -- to answer?
 15 MR. MULDOON: -- going to instruct him not to
 16 answer. 1:13:40
 17 MR. SMITH: We'll certify that question.
 18 BY MR. SMITH:
 19 Q. Have you ever had a case from Mr. Muldoon's
 20 office --
 21 MR. MULDOON: Just --
 22 BY MR. SMITH:
 23 Q. -- before? 1:13:50
 24 MR. MULDOON: -- just -- before we go on.
 25 Just for the record.

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1 We had a discussion about this, Mr. Smith and
 2 I, on the telephone, about what financial information
 3 he's entitled to regarding Mr. Hauri's work. 1:14:07
 4 And I asked him to send me any authority that
 5 he had regarding what we're required to disclose in
 6 terms of financial information. 1:14:24
 7 And Mr. Smith sent me a case from Florida,
 8 and we agreed that we would provide the information in
 9 the manner of the -- the percentage of work Mr. Hauri
 10 does as a security consultant versus the percentage of
 11 work he does as a litigation -- in -- in litigation
 12 consulting. 1:14:50
 13 And we gave him that information in the form
 14 of affidavit as agreed upon for five years.
 15 Okay. Let's go ahead. 1:14:57
 16 BY MR. SMITH:
 17 Q. Have you ever worked on a case or consulting
 18 work with Mr. Muldoon's firm before or Mr. Muldoon?
 19 A. Yes. 1:15:09
 20 Q. When was your last case with Mr. Muldoon's
 21 office?
 22 A. I would say five years perhaps. 1:15:20
 23 Q. What was the title of that case?
 24 A. I don't recall the complete title, but the --
 25 and -- and I don't -- I can't recall any of the -- the

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1 details in terms of the caption. 1:15:42
 2 But USRA was I think the defendant in the
 3 case.
 4 Q. What court was that filed in? What venue? 1:15:56
 5 A. I believe Cook County.
 6 Q. Okay. Have you had any other cases with him
 7 or his office?
 8 A. No. Not that I -- 1:16:11
 9 Q. Did you have any --
 10 A. -- can --
 11 Q. -- cases with --
 12 A. -- not that I can --
 13 Q. -- him when he was at a different office?
 14 Mr. Muldoon? 1:16:15
 15 A. Not that I can recall. No.
 16 Q. Okay. Was that case -- were you on the
 17 plaintiff side in that case? 1:16:22
 18 A. I believe so.
 19 Q. What type of case was it?
 20 A. I don't recall the specifics of it, but it
 21 involved a -- a convenience store. 1:16:37
 22 Q. Okay. Did that case go to trial?
 23 A. No.
 24 Q. Did you give a deposition? 1:16:53
 25 A. I'm sorry?

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1 Q. Did you give a deposition in that case?
 2 A. I don't -- I -- I just don't know. I -- I --
 3 I don't recall if I did. 1:17:03
 4 Q. Do you advertise your services?
 5 A. Occasionally.
 6 Q. In what types of ways? 1:17:13
 7 A. In a -- a listing with ALM Media. They --
 8 they're publishers of a number of law journals. And
 9 I've advertised with them in the past. 1:17:33
 10 Q. Do you advertise with anyone else?
 11 A. No. Not -- not that I can recall. 1:17:47
 12 Q. Okay. Do you go to any association events?
 13 ITLA? Anything of that nature? 1:17:55
 14 A. Oh, legal associations? No.
 15 Q. Okay. You work -- what company do you
 16 currently work for? 1:18:01
 17 A. Bradford Garrett Group.
 18 Q. Are you a partner there?
 19 A. No. I'm the managing director. 1:18:07
 20 Q. Okay. So it's your company?
 21 A. No.
 22 Q. Okay. But you -- you're the managing
 23 director for the -- for the whole company or for -- 1:18:15
 24 A. Yes.
 25 Q. -- this region or what?

15 (Pages 54 to 57)

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<p>1 A. For the company.</p> <p>2 Q. Okay. And what type of certifications do you</p> <p>3 currently hold? 1:18:27</p> <p>4 A. I hold the CPP, certified protection</p> <p>5 professional, certification with ASIS International. I</p> <p>6 held the certified fraud examiner certification with</p> <p>7 the Association of Certified Fraud Examiners. 1:18:57</p> <p>8 And I'd have to look at my -- my CV. Bear</p> <p>9 with me here, please. The certified business</p> <p>10 continuity planner I held in 1994 for I want to say</p> <p>11 about ten years. 1:19:41</p> <p>12 Q. Okay. The CPP. Did you have to take an exam</p> <p>13 to belong to that organization?</p> <p>14 A. Yes. No, not to belong to the organization,</p> <p>15 but to get the certification. 1:20:02</p> <p>16 Q. How long was the exam?</p> <p>17 A. One day.</p> <p>18 Q. Okay. Have you had to repeat that exam at</p> <p>19 all? 1:20:08</p> <p>20 A. No. But I have to certify continuing</p> <p>21 education on a -- a three-year basis.</p> <p>22 Q. How much continuing education do you have to</p> <p>23 have? 1:20:23</p> <p>24 A. Do I have?</p> <p>25 Q. Do you have to have in that three-year</p>	<p>1 A. Oh. No.</p> <p>2 Q. Okay. All right. One second. I'm sorry. 1:21:21</p> <p>3 On this Exhibit -- what's been marked as</p> <p>4 Exhibit 2, the third page. It has a list of all the</p> <p>5 things that you reviewed in preparation of your</p> <p>6 opinions in this case. 1:21:38</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Is there anything else that -- that you've</p> <p>10 reviewed that's not listed on there? 1:21:48</p> <p>11 A. I don't think so.</p> <p>12 Q. Is there anything that you would've liked to</p> <p>13 have seen that you do not see in this case? 1:21:56</p> <p>14 A. When -- when -- when you say like to see in</p> <p>15 -- in -- in the case, aside -- is this aside from</p> <p>16 anything that might be available? I'm -- 1:22:26</p> <p>17 Q. Yeah --</p> <p>18 A. -- trying to understand --</p> <p>19 Q. -- I would --</p> <p>20 A. -- your question.</p> <p>21 Q. -- I would just like to know anything that</p> <p>22 you think would've been important to see that you</p> <p>23 didn't see in this case. 1:22:31</p> <p>24 A. Well, CPD has a -- a -- a pod video. I</p> <p>25 haven't seen any of that.</p>
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<p>1 period.</p> <p>2 A. Oh. I think it's 20 hours. 1:20:33</p> <p>3 Q. CFE you said you held. Is that --</p> <p>4 A. Right.</p> <p>5 Q. You don't have that anymore? 1:20:40</p> <p>6 A. No. I dropped it last year.</p> <p>7 Q. Why?</p> <p>8 A. I wasn't using it.</p> <p>9 Q. And then the last one? Do you still hold</p> <p>10 that?</p> <p>11 A. No.</p> <p>12 Q. And what happened to that one? 1:20:51</p> <p>13 A. I dropped it because I wasn't using it.</p> <p>14 Q. Okay. Any other certifications that I'm</p> <p>15 missing? 1:21:01</p> <p>16 A. No.</p> <p>17 Q. Qualifications, training? Is there anything</p> <p>18 else as far as education?</p> <p>19 MR. MULDOON: Other than what's -- what's -- 1:21:10</p> <p>20 BY MR. SMITH:</p> <p>21 Q. Regarding security --</p> <p>22 MR. MULDOON: -- in the CV?</p> <p>23 BY MR. SMITH:</p> <p>24 Q. -- yeah, other -- other than what's on the</p> <p>25 CV? Are we missing anything? 1:21:13</p>	<p>1 Q. Did you see any of the body camera footage? 1:22:44</p> <p>2 A. No.</p> <p>3 Q. Could that video footage potentially have the</p> <p>4 ability to change your opinions in some way?</p> <p>5 A. I -- I have no idea. 1:22:58</p> <p>6 Q. Is it possible that that video footage, if it</p> <p>7 showed you something that you weren't expecting --</p> <p>8 could that have the ability to change your opinions in</p> <p>9 some way? 1:23:09</p> <p>10 MR. MULDOON: Objection. It's asked,</p> <p>11 answered, and speculation.</p> <p>12 THE WITNESS: I --</p> <p>13 MR. MULDOON: Foundation. 1:23:14</p> <p>14 THE WITNESS: I would have to see it in order</p> <p>15 to answer that question.</p> <p>16 BY MR. SMITH:</p> <p>17 Q. Okay. Anything else you'd like to see that</p> <p>18 you did not see in this case? 1:23:24</p> <p>19 A. Well, in terms of records, there aren't any</p> <p>20 records apparently in regards to the history of that</p> <p>21 location.</p> <p>22 Q. Well, are there not any records, or is it</p> <p>23 just that there is not any history? 1:23:48</p> <p>24 A. Well, it's that there's not any records.</p> <p>25 Q. Okay. And in what way do you know that? 1:23:55</p>

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<p>1 A. From the depositions.</p> <p>2 Q. Do you know if there's any history?</p> <p>3 A. Yes. I know there's history. 1:24:05</p> <p>4 Q. How do you know there's history?</p> <p>5 A. From the depositions. And from the Chicago</p> <p>6 PD calls for service. 1:24:16</p> <p>7 Q. And those calls for service and -- and</p> <p>8 analysis -- I didn't get any materials provided in</p> <p>9 those calls for service. Do -- do you know where that</p> <p>10 came from? 1:24:24</p> <p>11 A. Well, it came from CPD. I don't know how it</p> <p>12 came to me, but -- other than it was provided to me as</p> <p>13 part of the information. 1:24:35</p> <p>14 Q. Well, if I haven't seen that, is it in your</p> <p>15 file?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And why wasn't it produced in those</p> <p>18 materials? 1:24:57</p> <p>19 A. I don't know. I thought it was.</p> <p>20 Q. Are you able to give that to me after the</p> <p>21 deposition? 1:25:12</p> <p>22 A. I don't have it with me, but it can be</p> <p>23 provided.</p> <p>24 Q. What --</p> <p>25 MR. MULDOON: I think I provided it to you. 1:25:20</p>	<p>1 Q. Okay. Is there anything else it shows?</p> <p>2 A. Well, it's -- it's a log. It's dates and</p> <p>3 times and the nature of the call. 1:27:02</p> <p>4 Then there are any number of columns</p> <p>5 regarding their internal tracking mechanisms. So you</p> <p>6 may have six to eight set of digits that refer to other</p> <p>7 documents -- 1:27:24</p> <p>8 Q. Other --</p> <p>9 A. -- such as --</p> <p>10 Q. Go ahead.</p> <p>11 A. Such as a police report. 1:27:27</p> <p>12 Q. Other than the date of this shooting, which</p> <p>13 was December 31st of 2018, does that report show any</p> <p>14 other shootings at that Wendy's restaurant in the two</p> <p>15 years prior to this shooting that we're talking about</p> <p>16 today? 1:27:46</p> <p>17 A. No.</p> <p>18 Q. Does it show any criminal predatory attempted</p> <p>19 homicide shootings? In the -- 1:28:00</p> <p>20 A. No.</p> <p>21 Q. -- two years prior to this incident?</p> <p>22 A. No.</p> <p>23 Q. Does it show any combat military style</p> <p>24 carried-out homicide attempts for that location within</p> <p>25 the two years prior to this shooting that we're talking</p>
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<p>1 MR. SMITH: Okay.</p> <p>2 MR. MULDOON: If you look at the additional</p> <p>3 Rule 226 disclosures, I believe it was in there.</p> <p>4 MR. SMITH: Okay. 1:25:27</p> <p>5 BY MR. SMITH:</p> <p>6 Q. What does that particular report show?</p> <p>7 A. It shows a list of the calls over a period of</p> <p>8 I believe two years -- no, three years potentially.</p> <p>9 Calls for service to the restaurant. 1:25:47</p> <p>10 Q. And what types of things did that report</p> <p>11 reflect?</p> <p>12 A. Any number of -- of, well, calls for service.</p> <p>13 They show some -- what -- what would be characterized</p> <p>14 as criminal activity. 1:26:04</p> <p>15 So, for instance, disturbances, batteries.</p> <p>16 Guns. EMS calls.</p> <p>17 Q. I'm asking what did that particular report</p> <p>18 that you pulled for that area show. 1:26:26</p> <p>19 MR. MULDOON: That's what he's answering.</p> <p>20 BY MR. SMITH:</p> <p>21 Q. What did it show?</p> <p>22 A. That -- what I just said is what it shows. 1:26:33</p> <p>23 Q. What area does that cover, the report?</p> <p>24 A. The report targets the address of the</p> <p>25 restaurant. Calls to that location. 1:26:43</p>	<p>1 about today? 1:28:23</p> <p>2 MR. MULDOON: Well, objection as to relevance</p> <p>3 and speculation.</p> <p>4 BY MR. SMITH:</p> <p>5 Q. Go ahead.</p> <p>6 A. No. 1:28:30</p> <p>7 Q. You reviewed the surveillance footage in</p> <p>8 preparation for your report.</p> <p>9 A. Yes.</p> <p>10 Q. The surveillance footage was pretty good. Or</p> <p>11 at least as far as the location and the outside. 1:28:45</p> <p>12 I mean, it showed all the events that we're</p> <p>13 looking at here.</p> <p>14 A. Yes. Not with great clarity, for instance,</p> <p>15 but yes. 1:28:58</p> <p>16 Q. And in that video footage -- and -- and we'll</p> <p>17 look at it in fairness later, okay. But in that video</p> <p>18 footage, you can see an SUV stalking or at least in the</p> <p>19 back area of the restaurant in an alleyway prior to</p> <p>20 this attack occurring. Fair? 1:29:23</p> <p>21 MR. MULDOON: Objection to the</p> <p>22 characterization of the vehicle stalking anything or</p> <p>23 anybody.</p> <p>24 THE WITNESS: Are -- are you referring to the</p> <p>25 car that drives -- if you're looking at the frame --</p>

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<p>1 car that drives through the back of the parking lot. 1:29:41</p> <p>2 It's actually Wendy's parking lot. It comes</p> <p>3 in from an alleyway and goes from right to left? 1:29:48</p> <p>4 BY MR. SMITH:</p> <p>5 Q. It's an SUV-looking vehicle --</p> <p>6 A. No --</p> <p>7 Q. -- crossover -- 1:29:50</p> <p>8 A. -- I -- I --</p> <p>9 Q. -- SUV.</p> <p>10 A. -- I don't remember if it was an SUV. But it</p> <p>11 was -- I think it was light color, whether it was light</p> <p>12 gray or white, I'm not sure right now. 1:29:59</p> <p>13 But yeah. I don't -- I -- I -- I don't</p> <p>14 recall if it was an SUV type vehicle or not.</p> <p>15 Q. Did that vehicle -- did the shooters</p> <p>16 eventually appear to get out from that vehicle at some</p> <p>17 point? 1:30:15</p> <p>18 MR. MULDOON: Objection. Speculation.</p> <p>19 THE WITNESS: I didn't see that because that</p> <p>20 wasn't footage that was provided. If it exists. 1:30:22</p> <p>21 BY MR. SMITH:</p> <p>22 Q. Okay. You can see that SUV hiding in the</p> <p>23 alleyway and then crossing the back north lot of the</p> <p>24 Wendy's and then pulling out onto a side street on the</p> <p>25 east side of the Wendy's. In -- 1:30:34</p>	<p>1 Do you have any disagreement with that?</p> <p>2 MR. MULDOON: Objection as to speculation,</p> <p>3 foundation. You're asking -- 1:31:27</p> <p>4 MR. SMITH: Mm-hmm.</p> <p>5 MR. MULDOON: -- if -- if he is -- agrees</p> <p>6 with a video he hasn't seen?</p> <p>7 MR. SMITH: Mm-hmm. 1:31:31</p> <p>8 THE WITNESS: I -- I can't agree or disagree.</p> <p>9 BY MR. SMITH:</p> <p>10 Q. Well --</p> <p>11 A. I haven't --</p> <p>12 Q. -- you've seen --</p> <p>13 A. -- seen --</p> <p>14 Q. -- the video footage in the past, haven't</p> <p>15 you? 1:31:36</p> <p>16 A. I saw the video where the vehicle comes</p> <p>17 through the parking lot of --</p> <p>18 Q. Don't --</p> <p>19 A. -- I --</p> <p>20 Q. -- you believe that all the video footage</p> <p>21 surrounding the outside is important? 1:31:48</p> <p>22 A. Yes.</p> <p>23 Q. And it shows that SUV turning north on the</p> <p>24 side street on the east side of the building just</p> <p>25 before the shooting. Yes? 1:31:57</p>
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<p>1 MR. MULDOON: Objection --</p> <p>2 BY MR. SMITH:</p> <p>3 Q. -- the video footage that we provided. Is --</p> <p>4 MR. MULDOON: Objection --</p> <p>5 BY MR. SMITH:</p> <p>6 Q. -- that fair? 1:30:37</p> <p>7 MR. MULDOON: -- as to the characterization</p> <p>8 of the vehicle hiding.</p> <p>9 THE WITNESS: Yeah, I don't know what you</p> <p>10 mean by hiding. The -- the -- what I saw on the video</p> <p>11 was the vehicle drove through that parking lot. 1:30:47</p> <p>12 BY MR. SMITH:</p> <p>13 Q. Did you see the video -- on the video clip</p> <p>14 that the -- the vehicle -- the SUV crossover, whatever</p> <p>15 you want to call it, that vehicle that you described,</p> <p>16 that crossed the parking lot and went out onto the east</p> <p>17 roadway and turned north -- did you see that vehicle at</p> <p>18 any point in time pull in from the west side of -- of</p> <p>19 whatever that street is over there towards the Dan Ryan</p> <p>20 and then park behind a dumpster in the alleyway for a</p> <p>21 period of time? 1:31:14</p> <p>22 A. No, I didn't.</p> <p>23 Q. Okay. When I show that to you in a little</p> <p>24 bit, and I will, in the video footage, it does pause</p> <p>25 for a period of time. 1:31:23</p>	<p>1 A. Yes. Princeton Avenue.</p> <p>2 Q. And then you see two individuals come</p> <p>3 slightly jogging and running up to the black vehicle in</p> <p>4 the -- on the east of the building in the drive-through</p> <p>5 lane. 1:32:09</p> <p>6 A. Yes.</p> <p>7 Q. And then two shooters carry out a military</p> <p>8 combat style attack on the vehicle, shooting into both</p> <p>9 sides of the vehicle -- 1:32:18</p> <p>10 MR. MULDOON: Objection --</p> <p>11 BY MR. SMITH:</p> <p>12 Q. -- fair?</p> <p>13 MR. MULDOON: -- as to the characterization</p> <p>14 of a military type attack. 1:32:23</p> <p>15 THE WITNESS: I wouldn't call it a military</p> <p>16 attack. There's -- there's no basis for me to call it</p> <p>17 that. 1:32:31</p> <p>18 BY MR. SMITH:</p> <p>19 Q. Would you call it an execution attempt?</p> <p>20 MR. MULDOON: Objection as to</p> <p>21 characterization.</p> <p>22 THE WITNESS: I can't speak for their</p> <p>23 motivation. 1:32:37</p> <p>24 BY MR. SMITH:</p> <p>25 Q. Did it look like they were meant to -- to</p>

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<p>1 kill? 2 MR. MULDOON: Objection as to speculation as 3 to what the shooters were thinking. 1:32:45 4 THE WITNESS: I -- I can't speculate on their 5 -- on their motivation. It was -- it looked very 6 dangerous, and they were firing into the car. 1:32:54 7 BY MR. SMITH: 8 Q. Would you expect that someone fires in a car 9 has a reasonable expectation that they are -- could hit 10 someone and kill them? 1:33:02 11 MR. MULDOON: Objection as to, again, what 12 the shooters are thinking. 13 THE WITNESS: Again, motivation I don't know, 14 but that -- that could be one of their motivations. 15 Yes. 1:33:13 16 BY MR. SMITH: 17 Q. Well you were a detective, weren't you, sir? 18 A. Yes. 19 Q. And so you've analyzed footage and films of 20 people carrying out targeted attacks and shootings. 21 Correct? 1:33:22 22 A. Yes. 23 Q. And in your estimation, did these two 24 individual gunmen have the intent to kill when they 25 fired multiple, multiple gunshots into a car from</p>	<p>1 into the car, and -- and you -- you -- you don't shoot 2 into a car for the fun of it. It's -- it's an attempt 3 to seriously injure or kill the occupants in that car 4 in -- 1:34:33 5 BY MR. SMITH: 6 Q. And -- 7 A. -- my opinion. 8 Q. And -- and they knew -- based on your review 9 of the video footage from that east side of the 10 building, as those two shooters come jogging up towards 11 that black vehicle in the drive-through lane, they're 12 not mistaken as to what vehicle is their target based 13 on where they go and what they do. 1:34:50 14 Is that fair? 15 MR. MULDOON: Objection as to what they knew 16 and whether or not they were making a mistake. That's 17 just pure speculation. 1:34:55 18 THE WITNESS: Yeah, I can't say. It could've 19 been a mistake on their part. 20 BY MR. SMITH: 21 Q. If it was a mistake, they definitely had some 22 sort of colored vehicle target in mind and they went 23 straight to that vehicle. Fair? 1:35:07 24 MR. MULDOON: Objection as to whether or not 25 they had -- the -- the color of the vehicle had</p>
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<p>1 multiple angles? 1:33:36 2 MR. MULDOON: Again, objection as to the 3 shooters' intentions. 4 THE WITNESS: Yes. It looked like they were 5 attempting to seriously harm or kill the occupants of 6 that vehicle. 1:33:49 7 BY MR. SMITH: 8 Q. Did they have -- look to have any mistake in 9 their mind as to where they were going to be shooting 10 at that night? 11 MR. MULDOON: Objection as to what their 12 intent was. 1:34:00 13 MR. SMITH: I'm asking this expert -- 14 THE WITNESS: It -- 15 MR. SMITH: -- on his experience as a -- 16 THE WITNESS: It -- 17 MR. SMITH: -- as a policeman and as a -- 1:34:06 18 MR. MULDOON: Well, then -- 19 MR. SMITH: -- detective -- 20 MR. MULDOON: -- why -- 21 MR. SMITH: -- in analyzing video footage of 22 a crime. 23 MR. MULDOON: And I'm making my objection as 24 to your -- the characterization of your question. 1:34:12 25 THE WITNESS: I can say they were shooting</p>	<p>1 anything to do with their intention. 2 THE WITNESS: I -- I don't know. It's 3 possible. 1:35:16 4 BY MR. SMITH: 5 Q. They didn't spend any time looking for which 6 particular vehicle they were going to shoot at, did 7 they? 8 A. No. I don't believe they did. 1:35:29 9 Q. They just approached the black vehicle 10 quickly and -- and draw their weapons and began firing. 11 A. Yes. 12 Q. In rapid succession. 1:35:40 13 A. Rapid succession of what? 14 Q. The firing. 15 A. Yes. 1:35:46 16 Q. Both -- both individuals rapidly fired their 17 -- their handguns, unloading multiple, multiple shots. 18 Fair? 19 A. Yes. 1:35:55 20 Q. And then they retreated quickly? 21 A. Yes. 22 Q. Up the north street where that SUV had been 23 seen going out of the camera footage? 1:36:05 24 A. Yes. 25 Q. And that's the last we see of them.</p>

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<p>1 A. Correct.</p> <p>2 Q. Do you believe that whole attack to have</p> <p>3 taken less than two minutes or more than two minutes? 1:36:19</p> <p>4 MR. MULDOON: Objection to what he believes.</p> <p>5 We can look at the videotape and see how long they</p> <p>6 take.</p> <p>7 MR. SMITH: I'm asking. He's reviewed it. 1:36:25</p> <p>8 THE WITNESS: From what point to what point?</p> <p>9 I -- I --</p> <p>10 BY MR. SMITH:</p> <p>11 Q. When --</p> <p>12 A. -- assume your end point is -- 1:36:31</p> <p>13 Q. -- the two --</p> <p>14 A. -- firing on --</p> <p>15 Q. -- individuals --</p> <p>16 A. -- the car.</p> <p>17 Q. When you can see the individuals jogging up</p> <p>18 on the camera screen on the east of the building. That</p> <p>19 time from the time they jog off and you can't see them</p> <p>20 anymore. 1:36:41</p> <p>21 A. Yes. Less than two minutes.</p> <p>22 Q. It was a quick targeted attack.</p> <p>23 MR. MULDOON: Objection as to -- 1:36:50</p> <p>24 BY MR. SMITH:</p> <p>25 Q. Yes?</p>	<p>1 knew these people or targeted these people in</p> <p>2 particular. 1:38:07</p> <p>3 But I know they attacked the car in order to</p> <p>4 create the injuries or death. And the police</p> <p>5 department could not come up with a -- a motive. 1:38:22</p> <p>6 For all we know, they shot up the wrong car.</p> <p>7 They could have very easily made a mistake picking that</p> <p>8 particular vehicle. 1:38:41</p> <p>9 And there's no evidence that I have seen that</p> <p>10 connects the victims to the shooters.</p> <p>11 BY MR. SMITH:</p> <p>12 Q. Based on your experience, training,</p> <p>13 education, qualifications -- by the way, any questions</p> <p>14 I asked you today -- would they be -- if -- if I'm</p> <p>15 asking for your opinion or your conclusions, would they</p> <p>16 be to a reasonable degree of professional security</p> <p>17 certainty? 1:39:06</p> <p>18 A. Yes.</p> <p>19 Q. Tell me how you reasoned professional</p> <p>20 security certainty as it relates to reasonable</p> <p>21 foreseeability.</p> <p>22 A. Can -- sorry. 1:39:17</p> <p>23 Q. Of a criminal event.</p> <p>24 MR. MULDOON: Yeah, could you repeat the</p> <p>25 question? I didn't get it.</p>
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<p>1 MR. MULDOON: -- the term targeted.</p> <p>2 THE WITNESS: Again, I -- I can't speak for</p> <p>3 their motive or if they carried out -- if they had an</p> <p>4 order to carry out a -- an attack on that particular</p> <p>5 vehicle. 1:37:07</p> <p>6 But they -- they definitely tried to injure</p> <p>7 or kill the occupants in that vehicle.</p> <p>8 BY MR. SMITH:</p> <p>9 Q. They had a goal in mind based on what you saw</p> <p>10 from the footage. 1:37:21</p> <p>11 MR. MULDOON: Objection as to what they had</p> <p>12 in mind. It's -- it's pure speculation what they had</p> <p>13 in mind. 1:37:27</p> <p>14 THE WITNESS: Again, I -- I don't know, and</p> <p>15 the police department in its investigation couldn't</p> <p>16 come up with a motive.</p> <p>17 BY MR. SMITH:</p> <p>18 Q. Based on what you saw, do you have any</p> <p>19 reasonable belief whether or not the shooters may have</p> <p>20 or may have not known in the -- in -- prior to this</p> <p>21 incident the two individuals that were in the -- the</p> <p>22 black car that was shot -- shot? 1:37:50</p> <p>23 MR. MULDOON: Objection as to what the</p> <p>24 shooters knew. Speculation.</p> <p>25 THE WITNESS: Again, I don't know if they</p>	<p>1 THE WITNESS: Can you repeat it -- 1:39:21</p> <p>2 MR. SMITH: Can you read it back --</p> <p>3 THE WITNESS: -- please?</p> <p>4 MR. SMITH: -- please? Can you play it back? 1:39:24</p> <p>5 THE RECORDER: One moment.</p> <p>6 (Recording replayed)</p> <p>7 MR. MULDOON: Brad, can you help me --</p> <p>8 THE WITNESS: I don't -- 1:39:38</p> <p>9 MR. SMITH: Can you play it back again,</p> <p>10 please?</p> <p>11 MR. MULDOON: Well, you're just -- you're</p> <p>12 speaking too fast, Brad. Could you break it down a</p> <p>13 little bit and -- 1:39:42</p> <p>14 MR. SMITH: Just play it back one time,</p> <p>15 please.</p> <p>16 THE RECORDER: One more time? Okay. 1:39:47</p> <p>17 (Recording replayed)</p> <p>18 MR. MULDOON: I'm not even hearing all the</p> <p>19 words.</p> <p>20 MR. SMITH: Yeah, I'll -- I'll -- 1:39:58</p> <p>21 THE WITNESS: I --</p> <p>22 MR. SMITH: -- repeat it.</p> <p>23 BY MR. SMITH:</p> <p>24 Q. How do you reason as a professional security</p> <p>25 expert as to what particular events or criminal</p>

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<p>1 activities are reasonably foreseeable? 1:40:14</p> <p>2 A. Through conducting a risk assessment.</p> <p>3 Q. What are required to conduct a risk</p> <p>4 assessment? 1:40:27</p> <p>5 A. Well, there are three primary elements. One</p> <p>6 is location. The environment, if you will, of the</p> <p>7 specific facility. 1:40:44</p> <p>8 And then its history. What has happened</p> <p>9 there in the past. And lastly, it's operations. What</p> <p>10 -- what does that facility do. 1:41:01</p> <p>11 So you collect that information and make an</p> <p>12 assessment as to what could happen there.</p> <p>13 Q. And in this case, in the -- in the two years</p> <p>14 predating this shooting in January -- or excuse me --</p> <p>15 December of 2018, there were no attempted homicide</p> <p>16 military or tactical style attacks on any individuals</p> <p>17 at that Wendy's location -- 1:41:53</p> <p>18 MR. MULDOON: Objection --</p> <p>19 BY MR. SMITH:</p> <p>20 Q. -- fair?</p> <p>21 MR. MULDOON: -- to the term military</p> <p>22 tactical attacks. 1:41:58</p> <p>23 THE WITNESS: Not that I'm aware of.</p> <p>24 BY MR. SMITH:</p> <p>25 Q. Okay. That's important to your assessment.</p>	<p>1 that would be unduly burdensome on them. 1:44:21</p> <p>2 And my understanding, from what I've read</p> <p>3 over many years, the courts agree with that. However,</p> <p>4 there is the duty of care that when you know that you</p> <p>5 have some specific issues in terms of risk, that you</p> <p>6 address them. 1:44:49</p> <p>7 And if you don't address them, that's not</p> <p>8 reasonable.</p> <p>9 Q. Is reasonable foreseeability a legal -- legal</p> <p>10 standard for entities or folks to follow within a legal</p> <p>11 setting? 1:45:07</p> <p>12 A. To my understanding, yes.</p> <p>13 Q. Okay. And that is a -- a legal conclusion</p> <p>14 standard. Fair? 1:45:15</p> <p>15 A. I believe so.</p> <p>16 Q. Okay. Let me ask you this. Is there</p> <p>17 different security assessments when a property is</p> <p>18 closed, like a restaurant -- when a restaurant is</p> <p>19 closed versus open? 1:45:46</p> <p>20 A. I don't understand what you mean by a</p> <p>21 different assessment.</p> <p>22 Q. I mean, say the restaurant is closed at 4</p> <p>23 a.m. and this shooting occurs in the parking lot. 1:45:59</p> <p>24 What's your assessment in that circumstance?</p> <p>25 MR. MULDOON: Is this a hypothetical?</p>
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<p>1 Fair? 1:42:07</p> <p>2 A. The history is. Yes.</p> <p>3 Q. And in fact, the history is the -- one of the</p> <p>4 more important factors. Fair? 1:42:16</p> <p>5 A. Depends on the history, but yes. It can be</p> <p>6 more important than something else. But you need a</p> <p>7 complete history in order to make an accurate</p> <p>8 assessment. 1:42:38</p> <p>9 Q. I want to talk to you a little bit about</p> <p>10 reasonable foreseeability again. Is that a legal</p> <p>11 standard or is that a -- a professional security</p> <p>12 standard? 1:43:00</p> <p>13 A. Both.</p> <p>14 Q. And in the legal standard, what does it mean?</p> <p>15 A. My understanding of it is that you take steps</p> <p>16 that are reasonable. In other words, you're -- you're</p> <p>17 not expecting someone to create Fort Knox as a -- as a</p> <p>18 facility in the retail space. 1:43:35</p> <p>19 Which is what this is. It's a quick service</p> <p>20 restaurant. And it doesn't have to be protected by the</p> <p>21 military or a -- a lot of police officers. 1:43:56</p> <p>22 That would not -- it -- to expect that kind</p> <p>23 of -- of mitigation would -- would be unreasonable.</p> <p>24 You don't want to drive the facility out of business or</p> <p>25 make it impossible for them to make a profit, because</p>	<p>1 MR. SMITH: It can be. 1:46:07</p> <p>2 MR. MULDOON: Well, is it?</p> <p>3 MR. SMITH: Yes.</p> <p>4 MR. MULDOON: Okay. And so objection,</p> <p>5 incomplete hypothetical. 1:46:12</p> <p>6 But go ahead and answer.</p> <p>7 THE WITNESS: So in order to answer your</p> <p>8 question, I need more information. Are there people</p> <p>9 around? Customers? 1:46:21</p> <p>10 BY MR. SMITH:</p> <p>11 Q. Sure.</p> <p>12 A. Employees?</p> <p>13 Q. Well, no. No. The restaurant's closed. 1:46:25</p> <p>14 A. The restaurant is closed.</p> <p>15 Q. The parking lot is open, but there could be a</p> <p>16 loiterer or something. But the restaurant's closed.</p> <p>17 No one's there. 1:46:33</p> <p>18 A. Okay.</p> <p>19 Q. What is your assessment if a shooting were to</p> <p>20 happen at the property in that situation, similar type</p> <p>21 of shooting, assault, like we saw on this video</p> <p>22 footage, without anyone there? 1:46:48</p> <p>23 What is reasonable under these circumstances</p> <p>24 as far as security measures?</p> <p>25 MR. MULDOON: Objection. Again, it's an</p>

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<p>1 incomplete hypothetical. 1:46:56</p> <p>2 MR. SMITH: Sure.</p> <p>3 THE WITNESS: Well, what you're describing</p> <p>4 sounds like vandalism quite frankly. You know, if --</p> <p>5 if somebody comes in and fires shots in the -- in the</p> <p>6 parking lot when the restaurant is closed, certainly</p> <p>7 the risk of harm to the employees and the customers</p> <p>8 doesn't exist. 1:47:24</p> <p>9 So what you would do and -- and which I think</p> <p>10 is where you're going with the question, correct me if</p> <p>11 I'm wrong -- but what you would do at that point is</p> <p>12 make sure that your alarm systems work in the building,</p> <p>13 in the facility, and that your cameras, your</p> <p>14 surveillance cameras, are functional and recording the</p> <p>15 event. 1:47:54</p> <p>16 Clearly, without the presence of any people,</p> <p>17 the risk of harm to anyone there is -- because there's</p> <p>18 no one there, the risk of harm would be lower. 1:48:09</p> <p>19 However, those rounds, when they're fired --</p> <p>20 the question is, where do they go? And you can read</p> <p>21 that in a newspaper every day in the City of Chicago,</p> <p>22 how, you know, the four-year-old is sitting in her</p> <p>23 bathtub, is shot in the head because somebody was</p> <p>24 having a shooting party outside and one of the rounds</p> <p>25 went astray. 1:48:35</p>	<p>1 Q. Do you believe this particular restaurant had</p> <p>2 a properly lit parking lot?</p> <p>3 A. I don't know. 1:50:13</p> <p>4 Q. Well, based on your security assessment in</p> <p>5 this case, do you have any reason to believe that the</p> <p>6 lighting in the Wendy's parking lot either contributed</p> <p>7 to or caused this shooting incident? 1:50:26</p> <p>8 MR. MULDOON: Okay, so are we flipping back</p> <p>9 now to this case? Because you're flipping between</p> <p>10 hypotheticals and this case. It'd be -- it'd be good</p> <p>11 if you could signal which one you're talking about when</p> <p>12 you're asking a question. 1:50:34</p> <p>13 BY MR. SMITH:</p> <p>14 Q. Go ahead, sir.</p> <p>15 A. Let -- let's read the question back.</p> <p>16 THE RECORDER: One moment. 1:50:44</p> <p>17 (Recording replayed)</p> <p>18 THE WITNESS: So the lighting in the</p> <p>19 restaurant -- and I -- I don't know if it was lighting</p> <p>20 that should've been better or if it's the cameras that</p> <p>21 they were using in their surveillance equipment. 1:51:23</p> <p>22 But the -- the images are a bit grainy, and</p> <p>23 with proper lighting and cameras that can take</p> <p>24 advantage of good lighting, those images could've been</p> <p>25 clearer. 1:51:40</p>
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<p>1 So same thing at the restaurant. You could</p> <p>2 certainly have those rounds go into the residential</p> <p>3 units that are right behind the -- the restaurant. 1:48:51</p> <p>4 And about all you can do is make sure that</p> <p>5 your cameras working and that your alarm system is</p> <p>6 working. You could have security officers conducting</p> <p>7 patrols there to prevent that kind of thing or try to</p> <p>8 prevent it, at least deter it. 1:49:14</p> <p>9 But that's about all you could do. That</p> <p>10 would be reasonable.</p> <p>11 Q. If a similar type of shooting happened with</p> <p>12 no one working in the restaurant, no one at the</p> <p>13 restaurant, in the parking lot, like we see on the</p> <p>14 video footage, similar type of shooting, would you lay</p> <p>15 blame at Wendy's feet for causing that issue? If the</p> <p>16 restaurant was closed. 1:49:45</p> <p>17 MR. MULDOON: Is this a hypothetical?</p> <p>18 MR. SMITH: Yes.</p> <p>19 MR. MULDOON: And objection, incomplete</p> <p>20 hypothetical. 1:49:49</p> <p>21 THE WITNESS: I don't know, because we don't</p> <p>22 know if the alarm system was working and if the</p> <p>23 surveillance cameras were -- were working and if the</p> <p>24 parking lot was properly lighted. 1:50:06</p> <p>25 BY MR. SMITH:</p>	<p>1 So the -- the -- the question of the</p> <p>2 assessment is -- goes right back to the question of the</p> <p>3 capability of the equipment that they're using. 1:51:55</p> <p>4 BY MR. SMITH:</p> <p>5 Q. Okay. I guess what I'm asking you is, did</p> <p>6 the lighting outside in the restaurant parking lot</p> <p>7 cause or contribute, as you've said other things did,</p> <p>8 to this shooting? 1:52:06</p> <p>9 A. Possibly. I would have to see the lighting</p> <p>10 as it was in 2018.</p> <p>11 Q. Do you -- so you have no basis ability to</p> <p>12 formulate an adequate support reasoned opinion on</p> <p>13 whether the lighting caused or contributed to the</p> <p>14 shooting in -- on December 31st, 2018. Fair? 1:52:33</p> <p>15 A. Not exactly. As I said, the -- the images</p> <p>16 are a bit grainy, and better lighting would increase</p> <p>17 the possibility of identifying those individuals. 1:52:53</p> <p>18 And if the lighting is up -- up to par, then</p> <p>19 it might be a question of the cameras, the lenses that</p> <p>20 are being used and -- and the -- the type of camera</p> <p>21 that they're using. 1:53:10</p> <p>22 So it's -- I -- I -- I can't say one way or</p> <p>23 the other without actually seeing the lighting in that</p> <p>24 parking lot as it was when the shooting happened. 1:53:25</p> <p>25 Q. So you don't have enough information,</p>

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<p>1 evidence, support to make any opinion on whether or not</p> <p>2 the lighting did or did not contribute to the shooting</p> <p>3 on January -- or on December 31st, 2018. Correct? 1:53:38</p> <p>4 A. Yes. I did not make an opinion based on the</p> <p>5 lighting.</p> <p>6 Q. And you don't have enough information to do</p> <p>7 so. Correct? 1:53:48</p> <p>8 A. At this point, that's correct.</p> <p>9 Q. When you're doing a security assessment, risk</p> <p>10 assessment for a quick serve fast food restaurant like</p> <p>11 this Wendy's on Garfield in this case, versus work --</p> <p>12 versus bars and nightclubs, what are the differences to</p> <p>13 you as to the those risk assessments? 1:54:14</p> <p>14 A. Well, the three -- the three elements that I</p> <p>15 mentioned before are still important. And that doesn't</p> <p>16 change. 1:54:29</p> <p>17 You -- you need that information for all</p> <p>18 those three elements in order to facilitate a good</p> <p>19 assessment. And one of the things that you look at is</p> <p>20 -- is the operations, the difference, if you will,</p> <p>21 between a Q- -- a QSR operation and a bar, nightclub,</p> <p>22 tavern. 1:55:01</p> <p>23 The -- I think that the -- the operational</p> <p>24 difference is what really needs to be addressed in</p> <p>25 order to provide a good assessment. So when you add in</p>	<p>1 period of time. When you look at a bar or restaurant,</p> <p>2 those customers, again generally speaking, are there to</p> <p>3 go in and sit down and -- and either have a meal or</p> <p>4 consume some alcoholic beverages. 1:57:48</p> <p>5 So there's a time difference where your</p> <p>6 customers are -- are going to be in one of those</p> <p>7 facilities for a much longer period of time. 1:57:58</p> <p>8 And then you have your transaction.</p> <p>9 Transactions in a restaurant, a plain restaurant,</p> <p>10 happen at the end of the visit. 1:58:17</p> <p>11 Transactions at the QSR happens either at the</p> <p>12 front counter in the dining room or at the</p> <p>13 drive-through window. So that's -- that's a different</p> <p>14 set of circumstances that requires paying attention to</p> <p>15 the -- the mitigation strategies that you have. 1:58:48</p> <p>16 So, for instance, your drive-up window can be</p> <p>17 held up. So do you -- if -- if you have a high risk</p> <p>18 operation, do you get some ballistically rated glass to</p> <p>19 protect your employee so that someone can't just drive</p> <p>20 up and put a gun in their face and say hand over the</p> <p>21 money. 1:59:22</p> <p>22 In a regular sit-down -- what I'll call a</p> <p>23 sit-down restaurant, they can still be robbed.</p> <p>24 However, you have a lot of people, which means a lot of</p> <p>25 witnesses, sitting in that establishment. 1:59:45</p>
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<p>1 something like dancing you mentioned before, when you</p> <p>2 -- there's no -- there's no dancing in -- in a QSR. 1:55:37</p> <p>3 Generally speaking. The -- you don't have</p> <p>4 necessarily competitive games. You don't turn the</p> <p>5 lights down in the QSR. 1:55:50</p> <p>6 You want the -- the lights in the dining room</p> <p>7 to be bright and -- and welcoming. So you look at</p> <p>8 those differences, and -- and that assessment then as</p> <p>9 to its needs changes in the procedural areas. 1:56:07</p> <p>10 So I -- those are some of the differences</p> <p>11 between them. And -- and when you're not serving</p> <p>12 alcohol, you're much less likely to have</p> <p>13 alcohol-related problems. 1:56:29</p> <p>14 Q. Can alcohol generally cause or contribute to</p> <p>15 criminal activity at a particular establishment?</p> <p>16 A. Yes. Under certain circumstances. Sure. 1:56:43</p> <p>17 Q. Do burgers and fries cause or contribute to a</p> <p>18 -- a criminal activity at a certain quick serve</p> <p>19 restaurant?</p> <p>20 A. Not generally. No. 1:56:53</p> <p>21 Q. Okay. Is there anything else that goes into</p> <p>22 your risk assessment in a QSR versus a bar nightclub?</p> <p>23 A. Sure. So when you look at operations. 1:57:13</p> <p>24 A QSR, especially in late night operations,</p> <p>25 has customers that are on-site for a relatively short</p>	<p>1 So it's less likely to have an armed robbery</p> <p>2 at -- I don't know -- pick a restaurant of -- of any</p> <p>3 kind, where the clients come in and sit down for a</p> <p>4 meal. 2:00:04</p> <p>5 It's much less likely that an armed robbery</p> <p>6 would happen there while at least the customers are</p> <p>7 there. It might happen at the end of the night when</p> <p>8 they're closing up, when there are no customers or</p> <p>9 maybe just a few employees. 2:00:18</p> <p>10 But a QSR late night operation is vulnerable</p> <p>11 to those kinds of issues all the time. Their</p> <p>12 operational hours create that situation. 2:00:36</p> <p>13 And they're trying to solve for adverse</p> <p>14 events by shutting down the dining room, which makes a</p> <p>15 lot of sense. They close the dining room, they only</p> <p>16 have the one window to make transactions through. 2:00:56</p> <p>17 And their customers are constantly driving</p> <p>18 around that -- that establishment. It's in and out.</p> <p>19 It's not I'll go in there and sit for an hour and a</p> <p>20 half with somebody else to have a meal. 2:01:13</p> <p>21 Q. Let me ask you at this restaurant in</p> <p>22 particular on Garfield. In the four years prior to</p> <p>23 this shooting in December of 2018, were there any</p> <p>24 holdups in the drive-through window that you're aware? 2:01:29</p> <p>25 A. No. However, it was mentioned in deposition</p>

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<p>1 testimony that that was a fear on behalf of the 2 employees. 2:01:44 3 But there's nothing on the record that I've 4 seen that indicates that. Because the employees also 5 testified that they didn't call the police when they 6 had incidents. 2:02:00 7 They didn't necessarily call the police. 8 Which actually is a -- a violation of their own 9 policies and procedures. Apparently no one was -- 10 management wasn't enforcing the policies and 11 procedures. 2:02:18 12 And there's a bit of confusion when you 13 review the materials. You find their policies and 14 procedures -- on one, it says you can't go out the back 15 door. 2:02:30 16 You -- you can't put out the trash after 6 17 p.m. And then you read another one of their documents 18 -- I think they were calling them hot sheets. 2:02:41 19 You read another one of their documents and 20 they say you can't go out and dump the trash after 21 10:00 p.m. So which is it? 2:02:53 22 You -- you want to keep your employees inside 23 at 6 p.m. or do you want to keep them inside at 10 24 p.m.? So there's some confusion there on -- on their 25 -- on behalf of their policies and procedures. 2:03:08</p>	<p>1 get access to. 2:04:31 2 Q. Well, we're in federal court now and not 3 state court, so I'm entitled to disclosures ahead of 4 time. So I'm asking you, are you going to opine in 5 some way that taking out the garbage somehow caused or 6 contributed to this assault -- combat style assault 7 shooting in the parking lot? 2:04:50 8 MR. MULDOON: Objection -- 9 THE WITNESS: No. 10 MR. MULDOON: -- to the phrase combat assault 11 style shooting. 2:04:54 12 THE WITNESS: No. 13 BY MR. SMITH: 14 Q. Okay. What is your risk -- have we talked 15 all -- all about your risk assessment related to QSRs 16 and bar -- versus bars and nightclubs? 2:05:07 17 A. I believe so. 18 Q. Is there anything else? 19 A. Not that I can think of right at the moment. 2:05:14 20 Q. I want to talk about parking lots versus 21 indoors. Your risk assessments in those situations. 22 How do they differ; how are they similar? 2:05:24 23 And let's say for restaurants in particular. 24 A. For just a restaurant? Are we talking about 25 a sit-down restaurant, a -- 2:05:35</p>
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<p>1 Q. Are you opining that the policy and procedure 2 related to taking out the garbage that might be 3 conflicting based on your testimony is a cause or a 4 contributing factor to this particular combat style 5 shooting at that Wendy's location? 2:03:25 6 MR. MULDOON: Objection -- 7 THE WITNESS: I haven't -- 8 MR. MULDOON: -- to the phrase combat style 9 shooting. 2:03:28 10 THE WITNESS: I haven't opined that. But it 11 tells me when -- when -- when there's conflict between 12 employees in terms of things like training -- did you 13 get training? No. 2:03:44 14 Did you get training? Yes. Would -- is it 6 15 p.m. or is it 10 p.m.? That tells me that management 16 is not doing a good job in managing their security 17 procedures. 2:04:03 18 BY MR. SMITH: 19 Q. Are you -- do you have any experience in 20 management as a expert witness? Are you making any 21 opinions about management as an expert witness here as 22 far as conflicting policy about taking out the trash? 2:04:18 23 A. I haven't opined on that in this report. 24 Q. Do you plan on opining on that? 25 A. It depends on what other information I can</p>	<p>1 Q. Let's say a -- 2 A. -- white tablecloth restaurant? 3 Q. Let's say a QSR restaurant. 2:05:39 4 A. Okay. So you're asking me what's the 5 difference between -- 6 Q. Your risk assessments for both settings. 2:05:53 7 A. Okay. We're talking about a QSR restaurant. 8 Q. Yes. 2:05:59 9 A. And both settings would be what? Indoors 10 versus outdoors? 11 Q. Yes. 12 A. So if you have a population that wants to sit 13 in their vehicle and eat their meal in the parking lot, 14 that's a whole lot different than mom and her two kids 15 in the middle of the day coming through and buying a 16 couple of Happy Meals. 2:06:31 17 Because they're -- they're gone quickly. So 18 when you have people that tend to stay in the parking 19 lot, the difference would be that you want to -- 20 especially -- especially in a high risk environment, 21 you want that patrolled by security guards. 2:07:01 22 Q. Can a security guard -- one security guard, 23 armed, prevent a -- a combat styled what you'd termed 24 in the past -- I'll use criminal predatory attempted 25 homicide attack? 2:07:33</p>

24 (Pages 90 to 93)

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1 MR. MULDOON: I'll object to the phrase --
2 object to the phrase criminal predatory homicide
3 attempt.

4 THE WITNESS: Again, I go back to it depends
5 on their capability, the offender's capability and --
6 and motivation. 2:07:58

7 And I -- I will say that the presence of an
8 armed security guard patrolling in a parking lot would
9 serve as a deterrent. Criminals want to commit their
10 acts and get away. 2:08:18

11 So when they see an armed security guard,
12 that may keep them from attempting to do what it is
13 that they came to do. Can that guard prevent it? I
14 don't know. 2:08:39

15 It depends on how well-trained they are and
16 what the circumstances are. Certainly you don't want
17 to have a shoutout at the OK Corral with people sitting
18 in their cars and -- and being put in harm's way. 2:08:57

19 Yet a decision has to be made by that guard
20 as to what to do to stop that attempt once it starts.
21 So the major issue with the guards is deterrents. 2:09:16

22 Wearing a uniform, having a company car there
23 that has security tag on the side of it. Those are the
24 kinds of things that will deter a -- a criminal. 2:09:31

25 BY MR. SMITH:

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1 confrontation, you're making decisions in literally
2 fractions of a second. And that's very difficult for
3 people who've never lived under that kind of stress or
4 operated under that kind of stress to really understand
5 it and -- and do whatever it is that they have to do. 2:11:13

6 So you confront, you try to divert, and maybe
7 they'll run off. Or maybe they'll just start shooting
8 at you. That's part of the job. 2:11:27

9 Q. And if a security guard, hypothetically
10 speaking, was on the west side -- or excuse me -- the
11 east side of the Wendy's at the time that this combat
12 criminal military style attack were to have occurred in
13 the drive-through that you saw in the video footage,
14 would that security guard prevent that attack? 2:11:56

15 MR. MULDOON: Objection --

16 BY MR. SMITH:

17 Q. From happening.

18 MR. MULDOON: Objection to the
19 characterization of the attack. 2:12:00

20 THE WITNESS: Very possibly. In -- in this
21 case, what we have is a disturbance in the parking lot.
22 Prior to the shooting. 2:12:10

23 A disturbance in the parking lot in the line
24 going to the drive-up window.

25 Q. What was the disturbance? 2:12:20

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1 Q. Let me ask you this. If you were the
2 security guard, hypothetically speaking, and the
3 criminal -- the military styled combat attack by these
4 criminal predators were to occur in the drive-through,
5 like it did on the video footage that you saw, what
6 would you do to prevent that in that circumstance? 2:09:55

7 MR. MULDOON: Objection to the
8 characterization. Objection to the incomplete
9 hypothetical. Objection to the speculation. 2:10:03

10 THE WITNESS: I would try to get their
11 attention and divert them from their intended target.

12 BY MR. SMITH:

13 Q. So you would ask them to come and shoot you? 2:10:18

14 MR. MULDOON: Objection.

15 BY MR. SMITH:

16 Q. I mean, I'm -- I guess I'm not understanding.
17 You said you would try to get their attention and
18 divert them. 2:10:24

19 A. Yeah. So you get their attention. Hey, you,
20 drop the gun. Hello? And see what happens. 2:10:34

21 And make sure that potentially you have some
22 cover when you do that so that you don't get yourself
23 killed or injured. Those are decisions that are made
24 -- and this is something people just don't understand. 2:10:47

25 When you get into a confrontation, a lethal

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1 A. Cars honking, people yelling and swearing at
2 each other. Sounded -- it sounded to the employee like
3 a confrontation of some sort, a hostile confrontation
4 of some sort that was taking place. 2:12:39

5 So that's an indicator to the guard there's a
6 problem somewhere up in the line here. I'll go check
7 it. So he comes from the east side and works his way
8 around to the drive-up lane. 2:12:57

9 Now, because it's closed and because people
10 are only in the drive-through, they're not sitting in
11 the parking lot. If they are, the guard should already
12 be talking to them and saying what are you doing here. 2:13:15

13 Either get in line or move along. And the
14 guard doesn't have to -- if -- if this represents the
15 restaurant footprint, the alley is back here, drive-up
16 window is over here, the guard doesn't have to walk up
17 and down here unless he's attracted by something that's
18 going on, like an argument or a confrontation. 2:13:45

19 But the guard is going to be back here more
20 so that he can see this line all the time, and if he
21 hears what's going on, he's going to come up and he can
22 respond much more quickly than if he's standing at the
23 front corner where there's no one. 2:14:03

24 Q. Did you ever get any indication in this case
25 about the honking or incident in the drive-through --

25 (Pages 94 to 97)

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<p>1 was that related to the shooters? 2:14:15</p> <p>2 A. Don't know.</p> <p>3 Q. How do you not know that?</p> <p>4 A. There was no explanation for it. 2:14:20</p> <p>5 Q. Were the shooters in the drive-through at any</p> <p>6 point in time in the video footage you saw?</p> <p>7 A. No. In -- in the testimony, this happened</p> <p>8 several minutes before the shooting. 2:14:33</p> <p>9 Q. And there was no indication at any point in</p> <p>10 time that there was any physical altercation or</p> <p>11 fighting happening outside in the drive-through prior</p> <p>12 to this shooting. Fair? 2:14:42</p> <p>13 A. Yes. Because they couldn't see it. They</p> <p>14 could hear it but couldn't see it. 2:14:50</p> <p>15 Q. Is there an indication at some points in time</p> <p>16 that there is yelling over the intercoms at -- at</p> <p>17 drive-throughs at restaurants?</p> <p>18 A. Not that I recall. 2:14:59</p> <p>19 Q. Okay. If that stopped and there was no</p> <p>20 indication of a physical altercation or shooting or any</p> <p>21 issues, is that something that warrants calling the</p> <p>22 police or a security guard? 2:15:10</p> <p>23 A. Calling a security guard, yes. To check on</p> <p>24 it and make sure everything was okay.</p> <p>25 Q. If it died down and someone felt it was okay,</p>	<p>1 deter. Whether or not that guard could ultimately</p> <p>2 prevent the situation, I can't say. 2:16:54</p> <p>3 But his mere presence would at least act as a</p> <p>4 deterrent. Whether that deterrent is strong enough or</p> <p>5 not, I don't know. 2:17:04</p> <p>6 BY MR. SMITH:</p> <p>7 Q. Do you believe that two Chicago police</p> <p>8 officers or one Chicago police officer could've</p> <p>9 prevented the incident if they were in the vicinity? 2:17:14</p> <p>10 MR. MULDOON: Objection as to relevance.</p> <p>11 Objection as to speculation. Objection -- objection as</p> <p>12 to foundation. 2:17:24</p> <p>13 THE WITNESS: I would say it's very possible.</p> <p>14 BY MR. SMITH:</p> <p>15 Q. And is it also possible there could've been a</p> <p>16 shootout with these two individuals? 2:17:33</p> <p>17 A. Yes.</p> <p>18 Q. In fact, with the way these individuals were</p> <p>19 looking to attack this black car, do you expect that</p> <p>20 they would've followed the car somewhere else and</p> <p>21 carried out their action? 2:17:46</p> <p>22 MR. MULDOON: Objection as to speculation.</p> <p>23 THE WITNESS: They could have. Sure. 2:17:51</p> <p>24 BY MR. SMITH:</p> <p>25 Q. Okay. Would you expect that given the</p>
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<p>1 there was no screaming, honking, or anything of that</p> <p>2 nature in the three minutes before this shooting, does</p> <p>3 that change your opinion in any way? 2:15:31</p> <p>4 A. No.</p> <p>5 Q. Why?</p> <p>6 A. Because they couldn't see what was going on.</p> <p>7 You don't know what's going to happen as these folks</p> <p>8 come around. 2:15:43</p> <p>9 So it's important that those kinds of issues</p> <p>10 are addressed in the parking lot before they get to the</p> <p>11 window.</p> <p>12 Q. And if there was some issue in the</p> <p>13 drive-through line beforehand, do you believe a</p> <p>14 security guard still would've prevented this combat</p> <p>15 style military attack on the other side of the</p> <p>16 restaurant, on the east side of the restaurant? 2:16:20</p> <p>17 A. Again, I -- I --</p> <p>18 MR. MULDOON: Objection.</p> <p>19 Let me -- 2:16:23</p> <p>20 Objection to the characterization of the</p> <p>21 attack.</p> <p>22 THE WITNESS: I'll -- I'll go back to what I</p> <p>23 said earlier about the capabilities of that guard.</p> <p>24 That would make the difference. 2:16:40</p> <p>25 And the presence of the guard is there to</p>	<p>1 circumstances?</p> <p>2 MR. MULDOON: Objection as to speculation. 2:17:56</p> <p>3 THE WITNESS: That they would've followed the</p> <p>4 car out?</p> <p>5 BY MR. SMITH:</p> <p>6 Q. Just like they followed it in?</p> <p>7 MR. MULDOON: Objection as to the</p> <p>8 characterization that they followed the car in. 2:18:07</p> <p>9 MR. SMITH: We'll see it on the video.</p> <p>10 MR. MULDOON: Well, it's speculation. And</p> <p>11 I'll object to the characterization. 2:18:14</p> <p>12 THE WITNESS: I really can't say. I mean, I</p> <p>13 -- again, I can't put myself in their heads.</p> <p>14 BY MR. SMITH:</p> <p>15 Q. I want -- I want to talk to you about people</p> <p>16 in a parking lot in a drive-through lane versus perhaps</p> <p>17 loitering. 2:18:28</p> <p>18 Did you have any indication from your review</p> <p>19 of the video footage that on the night of this shooting</p> <p>20 that there were loiterers -- loiterers in the parking</p> <p>21 lot or not? 2:18:38</p> <p>22 A. No, I don't.</p> <p>23 Q. Do you have any opinion as to any loiterers</p> <p>24 being in the parking lot?</p> <p>25 A. Well, earlier, prior to the shooting, there</p>

26 (Pages 98 to 101)

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1 were a couple of people walking in the parking lot
 2 along the line of cars. 2:18:58
 3 And at one point, as I recall, the -- one
 4 individual gets out of the back seat of one of the
 5 vehicles in line and greets another person walking in
 6 the parking lot. 2:19:15
 7 They have a conversation. Then they both get
 8 in the car. The car advances, as I recall, in the
 9 parking lot, and then one person -- the -- the one
 10 person who was originally walking in the parking lot
 11 gets out of the car and walks away. 2:19:32
 12 So what does that represent? Could be a lot
 13 of things.
 14 Q. What's your definition of loitering? 2:19:42
 15 A. Hanging around without a purpose to be there.
 16 Very simple.
 17 Q. Okay. Does that usually involve someone
 18 hanging around more than a certain period of time? 2:19:52
 19 A. Yes. You know, somebody that walks into the
 20 parking lot and -- and looks around for a couple of
 21 minutes, doesn't contact anyone, and then walks off. 2:20:10
 22 That's not loitering.
 23 Q. I seem to understand that, in your opinions,
 24 you're offering opinions on deterrence versus
 25 prevention. Is that a fair assessment? 2:20:20

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1 A. Deterrence is prevention.
 2 Q. Okay. What other terms -- what ways is
 3 prevention different from deterrence? 2:20:28
 4 A. Well, you have an active person there that
 5 knows how to deal with those kinds of situations. As
 6 opposed to the French fry cook inside the restaurant. 2:20:46
 7 Q. Is there any guaranteed way in this
 8 circumstance to have prevented a -- a criminal homicide
 9 attack of a military style that occurred in -- in the
 10 parking lot on the night that this accident occurred?
 11 Or this shooting. 2:21:06
 12 MR. MULDOON: Objection as to the
 13 characterization of the attack. And also speculation.
 14 THE WITNESS: There are no guarantees. 2:21:14
 15 BY MR. SMITH:
 16 Q. Do you have any way of indicating one way or
 17 the other to a reasonable degree of certainty as to
 18 whether or not anything could prevent a criminal
 19 military style attack like occurred on the night in
 20 question here? 2:21:31
 21 MR. MULDOON: Objection as to the
 22 characterization of the attack and speculation.
 23 THE WITNESS: The question that I'm trying to
 24 answer here is what's reasonable. 2:21:49
 25 And a reasonable step in this instance would

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1 have been to have an armed security guard there on the
 2 overnight shift, patrolling the parking lot and the --
 3 well, the parking area and the -- the traffic areas for
 4 the cars. 2:22:07
 5 BY MR. SMITH:
 6 Q. Do you --
 7 A. And --
 8 Q. -- think -- go ahead. Sorry. 2:22:11
 9 A. Sorry.
 10 Q. No, you can go ahead.
 11 A. I -- I said earlier we can't guarantee
 12 perfection. It's just -- you know, you -- prevention
 13 is -- is a goal. 2:22:25
 14 But you can't give perfection.
 15 Q. Okay. Do you -- are you able within a
 16 reasonable degree of certainty to opine that this
 17 military style shooting could've been prevent -- or
 18 would've been prevented on the night in question? 2:22:58
 19 MR. MULDOON: Objection as to the
 20 characterization of the attack. Speculation.
 21 You can answer. 2:23:06
 22 THE WITNESS: I -- I -- I'm -- I'm not
 23 going to refer to this as a -- a military combat style
 24 tactical -- I think is another phrase that you've used
 25 on this. 2:23:20

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1 What we see on the video these folks can pick
 2 up in a video game. They can pick it up in -- on a --
 3 on a YouTube channel. 2:23:34
 4 They're -- they're not -- most likely,
 5 they're not combat trained.
 6 BY MR. SMITH:
 7 Q. What term would you use then, sir? 2:23:45
 8 A. An attack.
 9 Q. Okay. The same question, and substitute the
 10 word attack.
 11 MR. MULDOON: Do you under- -- do you
 12 remember his original question? 2:23:58
 13 THE WITNESS: No.
 14 BY MR. SMITH:
 15 Q. Can you opine to a reasonable degree of
 16 certainty as to whether or not this attack that
 17 occurred on December 31st, 2018 at this Wendy's would
 18 have been prevented? 2:24:14
 19 A. I can't guarantee that it would've been
 20 prevented. But I can say and opine that there was --
 21 there would -- if there would've been a guard there, it
 22 would've served as a deterrent to this event. 2:24:34
 23 Q. I'm asking you, though, do you have any way
 24 to opine to a reasonable degree of certainty that this
 25 event could've been prevented -- or I mean this -- this

27 (Pages 102 to 105)

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1 shooting attack could've been prevented on the night in
 2 question? 2:24:49
 3 MR. MULDOON: Objection. Asked and answered.
 4 It's the exact same question he just answered. 2:24:54
 5 THE WITNESS: No. No one can give us that
 6 guarantee.
 7 BY MR. SMITH:
 8 Q. Okay. I want to talk about -- 2:25:03
 9 MR. MULDOON: You switching gears here?
 10 Because --
 11 MR. SMITH: You need a --
 12 MR. MULDOON: -- if you're done, take --
 13 MR. SMITH: -- break?
 14 MR. MULDOON: -- a break? 2:25:07
 15 MR. SMITH: Yeah. We can take a break.
 16 MR. MULDOON: Which -- yeah, are we going to
 17 go til 5?
 18 MR. SMITH: Yeah. For sure. Maybe a -- 2:25:12
 19 THE RECORDER: All right --
 20 MR. SMITH: -- little after.
 21 THE RECORDER: -- going off record at 3:37
 22 p.m. 2:25:14
 23 (Off the record)
 24 THE RECORDER: Back on record at 3:44 p.m.
 25 BY MR. SMITH:

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1 Q. I wanted to talk to you quickly about
 2 speculation in your field, Mr. Hauri. 2:25:29
 3 What do you consider as speculation expert in
 4 the premises liability field? Or I mean premises
 5 security field. 2:25:36
 6 A. I'm not sure I understand. What do I?
 7 Q. There's -- there's difference in between a
 8 reasoned opinion, right, and -- with bases and con- --
 9 and reasoning and conclusions in your field versus one
 10 that just is kind of guessing or speculating. 2:25:53
 11 Is that -- is that a fair assessment?
 12 A. Yes.
 13 Q. What do you consider is speculation in your
 14 field? Or guess -- guessing. 2:26:02
 15 A. It's making a statement or coming to a
 16 conclusion without any basis or evidence for that
 17 conclusion.
 18 Q. Is it also coming to a conclusion without
 19 reasoned assessment? 2:26:31
 20 Because you have to reason to that
 21 conclusion. Fair?
 22 A. Yes.
 23 Q. Is it also guessing as to outcomes? 2:26:40
 24 A. Speculation?
 25 Q. Yes.

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1 A. Yes.
 2 Q. Is it also guessing as to prevention
 3 deterrence? 2:26:47
 4 A. No.
 5 Q. Okay.
 6 A. No.
 7 Q. Why not? 2:26:55
 8 A. Because you're -- with deterrence, you're
 9 using evidence that it has an impact and effect on the
 10 outcome.
 11 Q. And how do you reason in your field that
 12 something is well-reasoned on a deterrence issue? 2:27:27
 13 A. How do you reason that?
 14 Q. Yeah. How do you get from Point A with your
 15 first assessment to Point B with your bases and to
 16 Point C, your actual conclusions? 2:27:41
 17 How do you get there? For a deterrence issue
 18 in the security field. 2:27:47
 19 A. You look at what's taken place in the past in
 20 -- in the issue of deterrence and -- and see what
 21 evidence there is that certain actions or even
 22 equipment or signage has an impact being deterred from
 23 having something happen. 2:28:21
 24 Q. Does a restaurant have a -- a -- a duty to
 25 deter something that is not reasonably foreseeable to

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1 them?
 2 A. If it's not reasonably foreseeable, they
 3 don't plan or can't plan against it. 2:28:50
 4 Q. So does a restaurant have a duty to deter
 5 something that they have no reasonable foreseeability
 6 of?
 7 MR. MULDOON: Are you asking from a legal
 8 perspective, from a -- from a security industry
 9 practice standard? 2:29:07
 10 What -- what standard are you asking?
 11 BY MR. SMITH:
 12 Q. From your standard, sir, from the security
 13 industry. 2:29:13
 14 A. From the security industry, I -- I -- well, I
 15 think I mentioned this before. You -- you take the
 16 reasonable steps to mitigate what you should know or do
 17 know. 2:29:35
 18 And -- and there's plenty of help to -- to
 19 get that done. The -- the security solutions that are
 20 put into place, as I've said before, are not going to
 21 be perfect necessarily. 2:30:01
 22 But we know that they have an impact on
 23 criminal activity, in reducing criminal activity or out
 24 and out preventing criminal activity.
 25 Q. Does a restaurant have a duty to deter

28 (Pages 106 to 109)

<p style="text-align: right;">Page 110</p> <p>1 something that is not reasonably foreseeable to them?</p> <p>2 Yes -- 2:30:24</p> <p>3 MR. MULDOON: Objection --</p> <p>4 BY MR. SMITH:</p> <p>5 Q. -- or no?</p> <p>6 MR. MULDOON: -- asked and answered.</p> <p>7 THE WITNESS: If they don't know it -- it --</p> <p>8 reasonable foreseeability is based on what you know</p> <p>9 and/or what you should know. 2:30:46</p> <p>10 When you operate in a high rise -- a -- a</p> <p>11 high risk business, you should know what the risks are.</p> <p>12 And if you don't know, then you find out what those</p> <p>13 risks are, and you work to deter the activity, the</p> <p>14 negative activity that can come out of those risks. 2:31:15</p> <p>15 BY MR. SMITH:</p> <p>16 Q. And what I'm asking you is, based on that</p> <p>17 definition you've just -- just given me of reasonable</p> <p>18 foreseeability, does a restaurant have a duty in the</p> <p>19 law to deter something, a criminal act or some sort of</p> <p>20 act, that is not reasonably foreseeable under the law</p> <p>21 to it? 2:31:34</p> <p>22 MR. MULDOON: Well, I'm going to object.</p> <p>23 You're asking a question about what's required under</p> <p>24 the law. Because before you're asking about security</p> <p>25 standards and practices. 2:31:42</p>	<p style="text-align: right;">Page 112</p> <p>1 MR. MULDOON: Let -- let him -- he can ask</p> <p>2 the next question after he gives it. 2:32:50</p> <p>3 THE RECORDER: Just tell me if I need to go</p> <p>4 further back.</p> <p>5 (Recording replayed)</p> <p>6 THE RECORDER: Was that it? 2:33:29</p> <p>7 MR. MULDOON: Is there a question pending?</p> <p>8 MR. SMITH: Yes, there was.</p> <p>9 MR. MULDOON: What's the question? 2:33:35</p> <p>10 BY MR. SMITH:</p> <p>11 Q. Does a restaurant have a duty under the law</p> <p>12 to deter a criminal act or action if that criminal act</p> <p>13 or action is not reasonable foreseeable under the law</p> <p>14 to the restaurant? 2:33:47</p> <p>15 MR. MULDOON: Objection. Asked and answered</p> <p>16 again. And incomplete hypothetical.</p> <p>17 THE WITNESS: Yes. 2:33:53</p> <p>18 BY MR. SMITH:</p> <p>19 Q. A restaurant has a duty -- okay. That's</p> <p>20 fine. Okay. Sir, are there any exhibits that you plan</p> <p>21 on using at trial that were not provided in your file</p> <p>22 materials or in what you've told me about today? 2:34:15</p> <p>23 A. No.</p> <p>24 Q. Would you be using the video footage? Is</p> <p>25 that likely?</p>
<p style="text-align: right;">Page 111</p> <p>1 And now you're asking about -- is it Illinois</p> <p>2 law? Is it federal law? Is it another state law? 2:31:47</p> <p>3 BY MR. SMITH:</p> <p>4 Q. Illinois law, sir.</p> <p>5 A. Well, I'm not an attorney, so I can't speak</p> <p>6 to the -- the legal issue there. 2:31:56</p> <p>7 Q. Are you not allowed to opine on legal</p> <p>8 conclusions, sir?</p> <p>9 A. I've never had anyone tell me that. 2:32:03</p> <p>10 Q. Okay. Then can you tell me then? Can you</p> <p>11 answer my question?</p> <p>12 A. No. 2:32:08</p> <p>13 MR. MULDOON: He answered your question.</p> <p>14 MR. SMITH: No, he didn't.</p> <p>15 MR. MULDOON: Asked and answered. 2:32:12</p> <p>16 BY MR. SMITH:</p> <p>17 Q. Is a restaurant required under the law to</p> <p>18 deter -- to -- to do some deterrence as to a criminal</p> <p>19 activity if they have no reasonable foreseeability</p> <p>20 under the law of that particular act? 2:32:27</p> <p>21 MR. MULDOON: Same objections.</p> <p>22 BY MR. SMITH:</p> <p>23 Q. Or event.</p> <p>24 A. Can we read back my last answer, please? 2:32:39</p> <p>25 Q. Why?</p>	<p style="text-align: right;">Page 113</p> <p>1 A. It's likely. 2:34:22</p> <p>2 Q. Is there anything else you'd be using? Any</p> <p>3 schematics, demographics, anything sort of as a -- a --</p> <p>4 a -- a demonstrative aid? 2:34:30</p> <p>5 A. Possibly.</p> <p>6 Q. What would you expect to use as -- as a</p> <p>7 demonstrative aid?</p> <p>8 MR. MULDOON: Well, he said possibly. He</p> <p>9 didn't say what he expected. 2:34:42</p> <p>10 THE WITNESS: Perhaps a diagram of the</p> <p>11 placement of the facility and the adjoining streets.</p> <p>12 BY MR. SMITH:</p> <p>13 Q. Sort of like a Google map? 2:34:56</p> <p>14 A. Yes.</p> <p>15 Q. And what would that help you with in your</p> <p>16 testimony?</p> <p>17 A. Well, it would help the trier of fact see the</p> <p>18 layout. 2:35:13</p> <p>19 Q. And how would that help you explain your</p> <p>20 testimony to the trier of fact?</p> <p>21 A. By walking through what took place. 2:35:26</p> <p>22 Q. Okay. I want to show you the video footage.</p> <p>23 Okay?</p> <p>24 A. All right. 2:35:35</p> <p>25 MR. MULDOON: Are we going to identify this</p>

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1 by exhibit number or?
 2 MR. SMITH: This is going to be Exhibit No.
 3 4. I -- 2:35:40
 4 MR. MULDOON: Okay.
 5 MR. SMITH: -- will put a place marker in,
 6 and it will be the video footage we've used in other
 7 depositions. 2:35:45
 8 MR. MULDOON: Okay.
 9 MR. SMITH: The short clips.
 10 MR. MULDOON: Okay. And is it -- can you
 11 just identify the camera? The camera and the time. So
 12 -- 2:35:51
 13 MR. SMITH: I can do it --
 14 MR. MULDOON: Yeah.
 15 MR. SMITH: -- by sides, yeah, and the time,
 16 for sure. 2:35:55
 17 MR. MULDOON: All right.
 18 MR. SMITH: Because I can do west side, north
 19 side, east side --
 20 MR. MULDOON: Oh --
 21 MR. SMITH: -- you know. 2:35:57
 22 MR. MULDOON: -- you don't have it by camera
 23 number?
 24 MR. SMITH: I don't know if I do or not.
 25 MR. MULDOON: Oh. Okay. 2:36:00

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1 MR. SMITH: Yeah, this is what I've used at
 2 all the depositions though, so I don't know --
 3 MR. MULDOON: Okay. 2:36:03
 4 MR. SMITH: All right. Okay.
 5 BY MR. SMITH:
 6 Q. So I'm going to hand you -- I'm just going to
 7 stick my computer in front of you right here. 2:36:17
 8 A. Sure.
 9 Q. Okay, one second, and I am going to stand
 10 next to you. I'll try to be loud.
 11 MR. SMITH: Is this all right? 2:36:31
 12 THE RECORDER: It'll reach, Brad.
 13 MR. SMITH: Okay. It's okay. I'll get that. 2:36:35
 14 BY MR. SMITH:
 15 Q. All right. I'm going to show you what's been
 16 marked -- what's going to be marked with a placeholder
 17 as deposition Exhibit 4. 2:36:43
 18 It is select images from different sides of
 19 the building, and we'll describe them as we go through
 20 them. Okay?
 21 A. All right. 2:36:50
 22 (Exhibit No. 4 marked for identification.)
 23 BY MR. SMITH:
 24 Q. Okay. As we're looking at -- what's going on
 25 here? 2:36:58

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1 This is the --
 2 MR. MULDOON: Okay.
 3 BY MR. SMITH:
 4 Q. -- well, let's start at a different one. I'm
 5 sorry. 2:37:02
 6 MR. MULDOON: That's Camera 13.
 7 BY MR. SMITH:
 8 Q. We're going to do the east side of the
 9 building first. Okay? 2:37:08
 10 All right. This is starting at -- this is
 11 the east side camera of the building. It's starting at
 12 about 3:11:33 on the -- on the timing on the video
 13 footage. 2:37:23
 14 Do you see that?
 15 A. Yes.
 16 Q. Okay. I'm going to ask you if you see a
 17 vehicle coming from near the Dan Ryan into the back
 18 alleyway here in a bit. 2:37:38
 19 And parking behind the dumpsters. You let me
 20 know when you see that. Okay? 2:37:45
 21 A. All right.
 22 Q. Okay. Do you see that car kind of creeping
 23 in the back alleyway there? 2:38:06
 24 MR. MULDOON: Objection --
 25 THE WITNESS: Yes.

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1 MR. MULDOON: -- to the characterization
 2 creeping.
 3 BY MR. SMITH:
 4 Q. What was your answer, sir? 2:38:10
 5 A. Yes.
 6 Q. Do you see it parked behind the dumpster for
 7 a period of time now?
 8 A. Yes. 2:38:16
 9 Q. And that started at about 3:12, maybe roughly
 10 29 on the clock? Correct?
 11 A. Yes. 2:38:22
 12 Q. It's still sitting there? Yes?
 13 A. Yes.
 14 Q. Why would they -- 2:38:31
 15 MR. MULDOON: Can you see it?
 16 BY MR. SMITH:
 17 Q. -- be sit -- now it's moving across the back
 18 lot. Do you see that, at about 3:12:50 on the clock? 2:38:37
 19 A. Yes.
 20 Q. All right. Was that the vehicle that you
 21 believe that you saw that drove across the back parking
 22 lot and up the side street and parked on that side
 23 street on the west side of Wendy's? 2:38:48
 24 Out of sight.
 25 A. I -- I would say probably yes. However, if

30 (Pages 114 to 117)

<p style="text-align: right;">Page 118</p> <p>1 we look at the next camera or the next -- 2:39:03</p> <p>2 Q. The north side?</p> <p>3 A. -- view of the north side, we can see if it's</p> <p>4 the same that I mentioned before. 2:39:13</p> <p>5 Q. Okay. Okay. We're showing you that north</p> <p>6 side camera starting at about 3 -- 2:39:21</p> <p>7 MR. MULDOON: This is the north side? Does</p> <p>8 it say north side?</p> <p>9 MR. SMITH: It doesn't. But we see the menu</p> <p>10 ordering boards -- 2:39:25</p> <p>11 MR. MULDOON: If you could --</p> <p>12 THE WITNESS: Okay. Order --</p> <p>13 BY MR. SMITH:</p> <p>14 Q. -- DT menu board, 3950 roughly it starts,</p> <p>15 this particular clip. 2:39:32</p> <p>16 And is that the black car in the</p> <p>17 drive-through line that was shot up later from your</p> <p>18 memory of the footage?</p> <p>19 A. Yeah, it appears to be similar. Yes. 2:39:43</p> <p>20 Q. Okay.</p> <p>21 MR. MULDOON: Are we looking for something? 2:40:02</p> <p>22 MR. SMITH: If I fast forward, it may mess it</p> <p>23 up.</p> <p>24 MR. MULDOON: Oh. Got it.</p> <p>25 MR. SMITH: It's only a couple minutes here. 2:40:09</p>	<p style="text-align: right;">Page 120</p> <p>1 line get out of their cars or screaming at each other.</p> <p>2 What you could view with your eyes. 2:42:22</p> <p>3 A. So the --</p> <p>4 Q. SUV?</p> <p>5 A. -- SUV just passed through.</p> <p>6 Q. And that was 3:12:57? Yes? 2:42:34</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And we're going to switch the east</p> <p>9 side camera. Now, that's what I was asking a second</p> <p>10 ago. 2:42:40</p> <p>11 Can you answer my other question though, that</p> <p>12 -- whether or not you've ever seen in the video</p> <p>13 surveillance footage anybody in the drive-through line</p> <p>14 appear to be arguing or confronting anybody else at any</p> <p>15 point in time? 2:42:50</p> <p>16 A. No. But the -- as I recall, the -- one of</p> <p>17 the -- one of the people that was walking in the</p> <p>18 parking -- or in -- yeah, in the parking lot had gotten</p> <p>19 into the back seat with a -- of a car with another</p> <p>20 individual. 2:43:06</p> <p>21 I believe he gets out of that car then near</p> <p>22 the drive-up window.</p> <p>23 Q. And I guess that's not what I'm asking. I'm</p> <p>24 asking you at any point in time in the video footage,</p> <p>25 have you ever seen two individuals get in what you</p>
<p style="text-align: right;">Page 119</p> <p>1 BY MR. SMITH:</p> <p>2 Q. So now the black car's pulling around the</p> <p>3 drive-through at about 3:10:36, 37. Yes?</p> <p>4 A. Yes. 2:40:15</p> <p>5 Q. It's still in sight, but it's -- it's pulling</p> <p>6 way from the menu board. Fair?</p> <p>7 A. Correct. 2:40:21</p> <p>8 Q. Now, keep your eyes peeled for me for that</p> <p>9 SUV and just let me know when you see it. Okay?</p> <p>10 A. Yes. 2:40:30</p> <p>11 Q. Now the black car is totally out of view.</p> <p>12 Yes?</p> <p>13 A. Yes.</p> <p>14 Q. At this time on this video footage so far,</p> <p>15 have you seen anybody fighting, cussing, screaming at</p> <p>16 anybody that you can see with your eyes? 2:41:56</p> <p>17 A. No.</p> <p>18 Q. Anybody get out of vehicles to -- to fight or</p> <p>19 to approach each other or any sort of thing like that?</p> <p>20 A. No. 2:42:06</p> <p>21 Q. On any of the video surveillance footage that</p> <p>22 you've reviewed in the past, have you seen that?</p> <p>23 MR. MULDOON: Seen what? 2:42:16</p> <p>24 BY MR. SMITH:</p> <p>25 Q. Seen any individuals in the drive-through</p>	<p style="text-align: right;">Page 121</p> <p>1 believe to be a confrontation in the drive-through lane</p> <p>2 at any point in time on the surveillance footage? 2:43:25</p> <p>3 A. No.</p> <p>4 Q. Okay. Sorry. One second. Okay. I'm</p> <p>5 showing you now the east side camera. If it pops up</p> <p>6 here for us. 2:43:40</p> <p>7 Starting on about 3:11:36 on the clock. Do</p> <p>8 you see that?</p> <p>9 A. Yes.</p> <p>10 Q. And it's the DT lane back, is what it's</p> <p>11 described at on the footage, yes? 2:43:51</p> <p>12 A. Yes.</p> <p>13 Q. Okay. You tell me when you see the SUV</p> <p>14 cross. Okay?</p> <p>15 A. All right. 2:44:01</p> <p>16 Q. Do we now believe that to be an SUV or some</p> <p>17 crossover type of SUV?</p> <p>18 A. Yes.</p> <p>19 Q. Do you believe that that's the car that the</p> <p>20 shooters got out of and -- and came to the Wendy's -- 2:44:12</p> <p>21 MR. MULDOON: To the --</p> <p>22 BY MR. SMITH:</p> <p>23 Q. -- to shoot?</p> <p>24 MR. MULDOON: Objection. Speculation.</p> <p>25 THE WITNESS: I believe that's what the</p>

31 (Pages 118 to 121)

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<p>1 police investigation discussed. 2:44:23</p> <p>2 BY MR. SMITH:</p> <p>3 Q. Did you see the SUV?</p> <p>4 A. Yes.</p> <p>5 Q. Is that the one? 2:45:00</p> <p>6 A. It appears to be the same vehicle.</p> <p>7 Q. And it's about 3 -- coming across at about</p> <p>8 3:13 on the clock. Where does it go? 2:45:08</p> <p>9 A. North on Princeton.</p> <p>10 Q. Okay. And out of the -- out -- you can't see</p> <p>11 it any longer in the video footage, can you? 2:45:16</p> <p>12 A. No. Cannot.</p> <p>13 Q. And as these two individuals approach,</p> <p>14 describe for me what you're seeing. 2:45:29</p> <p>15 A. I see two individuals walking up through the</p> <p>16 parking lot from Princeton.</p> <p>17 Q. At 3:13:40 on the clock? 2:45:48</p> <p>18 A. Yes. Now they're in a trot. And they're</p> <p>19 firing on the car. Now they're running away. 2:45:59</p> <p>20 Q. Where are they going?</p> <p>21 A. Back to -- the same direction they came from</p> <p>22 over on Princeton.</p> <p>23 Q. And that's at about 3:14:03 on the clock</p> <p>24 they're gone. Correct? 2:46:12</p> <p>25 A. Yes.</p>	<p>1 police officer. Do you believe that? 2:47:27</p> <p>2 MR. MULDOON: And same objection.</p> <p>3 THE WITNESS: I haven't seen the -- the --</p> <p>4 the -- the police video. But I think that's definitely</p> <p>5 possible. 2:47:37</p> <p>6 BY MR. SMITH:</p> <p>7 Q. Okay. And do you believe that they were --</p> <p>8 had some intent, based on their positioning in the</p> <p>9 alley -- they remained there for a period of time,</p> <p>10 doing something. Fair? 2:47:49</p> <p>11 A. Yes.</p> <p>12 Q. Do you believe that to be engaging in some</p> <p>13 sort of stalking behavior of the black car?</p> <p>14 MR. MULDOON: Oh. Objection. Speculation. 2:47:58</p> <p>15 BY MR. SMITH:</p> <p>16 Q. Based on your experience, training as a</p> <p>17 detective, what type of a conclusion would you reach in</p> <p>18 reviewing that type of footage as to that fact? 2:48:07</p> <p>19 MR. MULDOON: Same objection.</p> <p>20 BY MR. SMITH:</p> <p>21 Q. And issues.</p> <p>22 A. I wouldn't go to a conclusion, because they</p> <p>23 could've been sitting there loading their guns. 2:48:17</p> <p>24 So I really don't know what they were doing</p> <p>25 there. And there -- and there hasn't been any -- any</p>
Page 123	Page 125
<p>1 Q. So do you believe now that the -- the actual</p> <p>2 maneuver by these two individuals of the attack took</p> <p>3 less than a minute?</p> <p>4 A. Yes. 2:46:27</p> <p>5 Q. Do you believe this to be a pre-planned</p> <p>6 attack based on your expertise and review of this video</p> <p>7 footage?</p> <p>8 MR. MULDOON: Objection. Speculation. 2:46:34</p> <p>9 THE WITNESS: I can't tell you whether it was</p> <p>10 pre-planned or not.</p> <p>11 BY MR. SMITH:</p> <p>12 Q. As a -- as an expert in your field and in</p> <p>13 being a former detective and police officer, do you</p> <p>14 believe that this attack by these two individuals was</p> <p>15 carried out for the purposes of killing the people in</p> <p>16 the black car? Or the person in the black car. 2:47:03</p> <p>17 A. Well, seriously injuring or killing them.</p> <p>18 Yes.</p> <p>19 Q. Do you believe based on your review of the</p> <p>20 video footage that these two individuals were in that</p> <p>21 SUV that was in the alleyway on the north side -- north</p> <p>22 and east side of Wendy's? 2:47:20</p> <p>23 MR. MULDOON: Objection. Speculation.</p> <p>24 BY MR. SMITH:</p> <p>25 Q. And I'm asking you as a detective and a</p>	<p>1 evidence of explaining what they were doing there. 2:48:31</p> <p>2 Q. Do you have any reason to doubt that those</p> <p>3 two individuals were the shooters or that those -- that</p> <p>4 that SUV contained the two individuals that were the</p> <p>5 shooters in this -- this circumstance? 2:48:41</p> <p>6 MR. MULDOON: Objection. Speculation and</p> <p>7 asked and answered. He said it was possible. 2:48:47</p> <p>8 THE WITNESS: Again, it's -- it was possible</p> <p>9 that -- that those are the same two people coming out</p> <p>10 of that car.</p> <p>11 BY MR. SMITH:</p> <p>12 Q. And they had no intent based on -- well, I</p> <p>13 guess I'll ask it like this. 2:49:06</p> <p>14 They never stopped in the Wendy's parking lot</p> <p>15 at any point within the vicinity of the Wendy --</p> <p>16 Wendy's parking lot. Fair? 2:49:13</p> <p>17 A. They drove through the Wendy's parking lot.</p> <p>18 Q. They never stopped in any part of the parking</p> <p>19 lot on Wendy's property. Fair? 2:49:21</p> <p>20 MR. MULDOON: Objection.</p> <p>21 THE WITNESS: I'm trying to think back to the</p> <p>22 -- the trash containers there.</p> <p>23 BY MR. SMITH:</p> <p>24 Q. That was a common alleyway, though, wasn't</p> <p>25 it? 2:49:35</p>

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1 A. Well, the alley -- the alley intersects with
2 a northbound alley. And it's at that point where that
3 property is Wendy's. That's their parking lot. 2:49:52
4 So they entered from the alley onto their
5 parking lot, the Wendy's parking lot, and drove through
6 that.
7 Q. But they stopped on the alleyway to do
8 whatever they were doing for that period of time that
9 they didn't move their vehicle. Fair? 2:50:08
10 A. Correct.
11 Q. And then they -- when they took off, they
12 drove straight across the Wendy's north parking lot
13 onto Princeton and turned north. Fair? 2:50:15
14 A. Yes.
15 Q. Okay. Have you ever in your -- in your past
16 history as a detective or -- or a -- an expert, have
17 you ever witnessed an attack on a vehicle similar to
18 this one? 2:50:38
19 MR. MULDOON: Eye -- eyewitness?
20 BY MR. SMITH:
21 Q. Either -- either you've reviewed something
22 from it or in person saw it. Any -- any way have you
23 ever seen anything like that? 2:50:49
24 A. I've not. I've not witnessed it personally.
25 I -- and I can't -- I can't recall a specific shooting

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1 case that was similar to this one off the top of my
2 head. It's -- 2:51:13
3 Q. Did you find the way that these shooters
4 carried out this aggressive attack, of a military
5 style, to be extremely heinous in the way it was
6 carried out? 2:51:27
7 MR. MULDOON: Objection as to the
8 characterization of the attack and --
9 THE WITNESS: I would call them highly
10 motivated in their attack. 2:51:40
11 BY MR. SMITH:
12 Q. Okay. And would you call it a targeted style
13 attack?
14 MR. MULDOON: Objection as to --
15 BY MR. SMITH:
16 Q. Based on --
17 MR. MULDOON: -- speculation. 2:51:48
18 BY MR. SMITH:
19 Q. -- your -- your history as a detective and a
20 -- and a police officer, would you call that attack,
21 based on your review of the footage, a -- a targeted
22 attack? 2:51:57
23 MR. MULDOON: Objection. Speculation.
24 THE WITNESS: I'd be guessing. I -- I'm -- I
25 -- there is -- there is no evidence in the record that

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1 -- that I've seen that indicates any reason to believe
2 this was a targeted attack on the two individuals in
3 the car. 2:52:17
4 BY MR. SMITH:
5 Q. Do you believe, based on your experience as a
6 detective, police officer and your review of the
7 footage and your basis and all -- all the reasons that
8 you're an expert in this area or -- or -- or presented
9 as an expert in this area -- do you believe that, after
10 review of the footage, that this was a targeted attack
11 by these two individuals on the black car? 2:52:37
12 Not the individuals but the black car.
13 MR. MULDOON: Same objection.
14 THE WITNESS: Well, they certainly selected
15 the black car to shoot into. It -- the reason that
16 they did this, the motivation for doing this, we can't
17 say. 2:53:00
18 There's just no information with that at all.
19 For all we know, it could have been a gang initiation.
20 And that car just happened to be the car that they
21 picked in line. 2:53:15
22 BY MR. SMITH:
23 Q. And that could be a -- but that's still a
24 targeted attack if it is a gang initiation and they
25 picked that car. Fair? 2:53:22

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1 MR. MULDOON: No -- objection. Speculation.
2 THE WITNESS: Well, it's --
3 BY MR. SMITH:
4 Q. I mean, that's --
5 A. -- it --
6 Q. -- fair and logical, right? 2:53:26
7 A. But then -- then it would --
8 MR. MULDOON: Same objection.
9 THE WITNESS: Then it would fall into a crime
10 of opportunity. They could've picked a white car. Or
11 the black car. 2:53:41
12 BY MR. SMITH:
13 Q. But that's still a targeted attack. When
14 they make that selection --
15 A. Well --
16 Q. -- whether it be white or black, the car
17 color, they are targeting a particular car. 2:53:51
18 MR. MULDOON: Well --
19 BY MR. SMITH:
20 Q. Fair?
21 MR. MULDOON: -- objection to the term
22 targeted attack. I mean --
23 THE WITNESS: I -- I'm -- I'm trying to
24 answer your question, but I'm wrestling with -- with
25 your use of the word targeted attack. 2:54:02

33 (Pages 126 to 129)

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1 In my mind, a targeted attack is I'm after
 2 you and I'm going to shoot up your car. Versus a crime
 3 of opportunity, where, for whatever reason, they
 4 decided to shoot into a car and it happened to be the
 5 black car. 2:54:25
 6 BY MR. SMITH:
 7 Q. Based on your experience as a detective and a
 8 police officer, would you deem it to be premeditated?
 9 MR. MULDOON: Deem what to be premeditated? 2:54:35
 10 BY MR. SMITH:
 11 Q. This shooting --
 12 A. A --
 13 Q. -- this -- this attempted homicide by these
 14 two individuals, these two African-American
 15 individuals. 2:54:40
 16 MR. MULDOON: Well, again, it's speculation.
 17 THE WITNESS: I -- you -- as -- as one of
 18 many possibilities, sure. But there's no way to tell
 19 at this point. 2:54:50
 20 We don't have any information that -- that
 21 explains how that selection process was made.
 22 BY MR. SMITH:
 23 Q. Yet it was made. Correct? 2:55:01
 24 A. Yes.
 25 Q. And it was selected. Fair?

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1 A. They selected the black car. 2:55:08
 2 Q. Had you ever seen in the past years at the
 3 particular restaurant on Garfield an attack similar to
 4 this attack based on your research in this case? 2:55:25
 5 A. I didn't do any research looking for that
 6 kind of shooting incident.
 7 Q. Did you find anything in your research that
 8 happened at this restaurant that was similar to this
 9 attack in the drive-through? 2:55:47
 10 A. No.
 11 Q. Okay. I want you to get back out for me
 12 Exhibit 1 if you can, sir. 2:56:00
 13 MR. MULDOON: I'm sorry. What, what?
 14 MR. SMITH: Exhibit 1.
 15 BY MR. SMITH:
 16 Q. I think it's over there -- 2:56:05
 17 A. Exhibit 1.
 18 Q. -- Ron. Okay. I want you to turn to me, if
 19 you can, page 9 of that, where your report starts. 2:56:21
 20 Before we get into that report, I -- I do
 21 have two questions for you. Did you do any
 22 calculations of criminal statistics at that restaurant
 23 in your research and analysis of this case? 2:56:57
 24 A. Calculations regarding?
 25 Q. Criminal statistics at that location. Did

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1 you do any calculation to try to come up with some
 2 percentage or -- of types of crimes or issues or -- or
 3 anything? 2:57:16
 4 A. Well, I looked at the -- the OEMC report of
 5 -- of the called-for service. And I believe there were
 6 29 -- 2:57:31
 7 Q. I'm just asking you, sir -- we -- you already
 8 told me about the OEMC stuff. Did you do any
 9 calculations of criminal statistics -- 2:57:37
 10 MR. MULDOON: Like --
 11 BY MR. SMITH:
 12 Q. -- for that --
 13 MR. MULDOON: -- mathematical calculation?
 14 BY MR. SMITH:
 15 Q. Yeah, anything -- 2:57:40
 16 A. No.
 17 Q. -- for that location.
 18 A. No.
 19 Q. Did you do any analysis of anything other
 20 than the OEMC report for that location? As far as
 21 looking at the criminal statistics. 2:57:49
 22 A. No.
 23 Q. Okay. I want to talk about your report. And
 24 you have that in front of you. That's Exhibit 1. Page
 25 9 I believe it starts on. 2:58:01

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1 And I'm going to page 10, and I see that
 2 you've expressed an opinion on page 10, that your
 3 report is held to a reasonable degree of professional
 4 certainty. 2:58:22
 5 What does that mean to you? That term.
 6 A. Based on my experience and education, in
 7 reviewing the materials, I came to these conclusions
 8 and opinions. 2:58:46
 9 Q. What kind of treatises do you deem to be used
 10 by experts in your field that are just top of the line?
 11 A. Protection of assets and the standards that
 12 are promulgated by ASIS International. 2:59:03
 13 Q. Is that something that experts in your field
 14 reasonably rely on in forming opinions, conclusions?
 15 A. Yes.
 16 Q. Is there anything else? Any other ones that
 17 you deem to be important treatises in your field? 2:59:16
 18 A. Well, there's the NFPA.
 19 Q. What does that mean?
 20 A. National Fire Protection Association. 2:59:29
 21 Q. Anything else?
 22 A. The accident prevention treatise.
 23 Q. Anything else? 2:59:40
 24 A. Bear with me a moment here. I'm --
 25 Q. Sure.

<p style="text-align: right;">Page 134</p> <p>1 A. -- cataloguing. Well, there are any number 2 of textbooks that discuss security practices and 3 principles. 3:00:15 4 Q. Which ones do you use in your daily practice? 5 Just the ones you've discussed with me? 6 A. Yeah, the ones I've discussed and -- and 7 mentioned. And -- 8 Q. Okay. 3:00:27 9 A. -- sometimes I look at a specific textbook or 10 publication that narrowly discusses specific practices 11 or standards. But on a very narrow basis as opposed to 12 a broad standard, if you will. 3:00:58 13 Q. I -- I'm just asking the treatises you use 14 day to day in your -- in your expertise to form 15 opinions, conclusions, and I've heard about certain 16 ones by name. 3:01:09 17 Are there any other ones that you use? 18 A. There are, but I -- I -- I can't tell you how 19 -- how much I use them or which ones I've used 20 recently. 3:01:22 21 These -- the ones that I've mentioned are the 22 ones that I use most frequently. 23 Q. And are they ones that other experts in your 24 field of expertise reasonably rely on in forming their 25 opinions, conclusions? 3:01:34</p>	<p style="text-align: right;">Page 136</p> <p>1 Q. Okay. On page 4 of 7, you state an opinion 2 there. You state that the criminal activity that 3 resulted -- and I'm paraphrasing 3:02:59 4 Tell me if I'm wrong. (As read): The 5 criminal activity that resulted in the Plaintiff's 6 injuries was reasonably foreseeable to Wendy's, that 7 Wendy's failed to use reasonable care and follow the 8 applicable standards and established security practices 9 to prevent the criminal activity that resulted in 10 Plaintiff's injuries, that the burden to use reasonable 11 care and follow the applicable security standards and 12 established practices to prevent the criminal activity 13 would've been minimal for Wendy's, and that Wendy's 14 failure to use reasonable care and follow the 15 applicable security standards and established practices 16 and was a proximate cause of the injuries suffered by 17 Plaintiff. 3:03:34 18 Did I read that correctly? 19 A. Yes. 20 Q. Are those your opinions in this case? 3:03:40 21 A. Yes. 22 Q. As far as -- working out way down here, I 23 think you get into more detail, but the basis for the 24 opinion that the criminal activity was reasonably 25 foreseeable to Wendy's. 3:03:54</p>
<p style="text-align: right;">Page 135</p> <p>1 A. Yes. 2 Q. Okay. I see here you -- on page 10 going to 3 11, you name all the items that you looked at in 4 reviewing your opinions. 3:01:47 5 I believe that matches the other part. But 6 in -- in reviewing those things, is there anything else 7 that you missed that you reviewed? 3:01:55 8 A. Not that I can think of. 9 Q. Okay. And I see your Introduction starts on 10 page 11. And you talk about a description of the 11 shooting and other matters. 3:02:13 12 Is there anything you'd like to change in -- 13 on -- on page 11 of this PDF? Or I mean of this 14 document you're looking at, Exhibit 1. 3:02:24 15 MR. MULDOON: What page of the report is it 16 that we're talking about? 17 MR. SMITH: This would be page -- 18 MR. MULDOON: It's on the bottom. 3:02:28 19 MR. SMITH: Yeah. 3 of 7. 20 MR. MULDOON: Okay. Thank you. 3:02:33 21 THE WITNESS: No. Not at this point. 22 BY MR. SMITH: 23 Q. Okay. 24 A. I don't -- I don't see anything that needs to 25 be changed. 3:02:44</p>	<p style="text-align: right;">Page 137</p> <p>1 And you use the term reasonably foreseeable 2 there. Are you using that as a legal term or are you 3 using that term from a security perspective? 3:04:03 4 A. Both, actually. I think that the reasonable 5 foreseeability is -- is demonstrated here by what 6 Wendy's was doing in terms of security and security 7 mitigation. 3:04:29 8 Q. Okay. And what do you base that opinion on? 9 A. The depositions. Primarily Rocco Prate. 3:04:44 10 Q. Okay. Is there anything else? 11 A. Well, in -- in some of the other deposition 12 material, talking about their procedures and the -- the 13 event as it took place. 3:05:07 14 Q. Okay. Anything else? 15 MR. MULDOON: What's -- what's the original 16 question? 3:05:25 17 MR. SMITH: I'm -- 18 THE WITNESS: No. 19 MR. SMITH: -- just asking him if -- what his 20 basis are. 21 MR. MULDOON: Other than what's listed? 3:05:28 22 BY MR. SMITH: 23 Q. Yeah, is there any other basis that you have 24 for the opinion of -- 25 MR. MULDOON: Other than --</p>

<p style="text-align: right;">Page 138</p> <p>1 BY MR. SMITH:</p> <p>2 Q. -- reasonable -- 3:05:31</p> <p>3 MR. MULDOON: -- what's listed on the report.</p> <p>4 BY MR. SMITH:</p> <p>5 Q. Other than reasonably foreseeable, do you</p> <p>6 have any other basis to support that opinion? 3:05:37</p> <p>7 MR. MULDOON: Other than what's listed in</p> <p>8 here.</p> <p>9 BY MR. SMITH:</p> <p>10 Q. Other than what's listed. 3:05:40</p> <p>11 MR. MULDOON: Okay.</p> <p>12 THE WITNESS: No.</p> <p>13 BY MR. SMITH:</p> <p>14 Q. And anywhere there -- and then your next</p> <p>15 opinion's about reasonable care and -- and Wendy's</p> <p>16 failed to use reasonable care to follow applicable</p> <p>17 security standards and established practices to protect</p> <p>18 Plaintiff and other customers from the reasonable</p> <p>19 foreseeable -- foreseeable criminal activity. 3:06:10</p> <p>20 And then you go on to say include (as</p> <p>21 read): Wendy's failed to have a security survey</p> <p>22 conducted by a competent professional to assess it</p> <p>23 security needs. 3:06:19</p> <p>24 And all the things you say in there. You</p> <p>25 know, what are your basis for forming those opinions?</p>	<p style="text-align: right;">Page 140</p> <p>1 MR. SMITH: No.</p> <p>2 MR. MULDOON: Or do you want to ask him if</p> <p>3 there's -- 3:07:30</p> <p>4 MR. SMITH: No, I --</p> <p>5 MR. MULDOON: -- any others?</p> <p>6 MR. SMITH: -- just want -- I want to direct</p> <p>7 my deposition and ask my questions. That's -- 3:07:33</p> <p>8 MR. MULDOON: Okay.</p> <p>9 MR. SMITH: -- what I want to do.</p> <p>10 MR. MULDOON: Do you understand the question?</p> <p>11 He's asking you what the bases are for your opinions,</p> <p>12 which are listed on pages 4 and 5 of -- of your report. 3:07:42</p> <p>13 THE WITNESS: Right.</p> <p>14 MR. SMITH: Yeah.</p> <p>15 MR. MULDOON: So I don't know if he wants you</p> <p>16 to read them, read --</p> <p>17 THE WITNESS: I -- 3:07:45</p> <p>18 MR. MULDOON: -- that into the record or</p> <p>19 what.</p> <p>20 BY MR. SMITH:</p> <p>21 Q. No, I'm asking you, why do you conclude that</p> <p>22 it's reasonably foreseeable that this criminal homicide</p> <p>23 attack -- why is that reasonably foreseeable? 3:08:00</p> <p>24 A. Well, again, they're operating in a high risk</p> <p>25 environment and they know it. Wendy's vis-à-vis Rocco</p>
<p style="text-align: right;">Page 139</p> <p>1 Other than what's listed in this document. 3:06:27</p> <p>2 A. I think that's -- that's complete.</p> <p>3 Q. Why do you deem this attempted homicide</p> <p>4 attack as a reasonably foreseeable? 3:06:43</p> <p>5 MR. MULDOON: Going back to --</p> <p>6 THE WITNESS: Because of the nature of the</p> <p>7 environment. You have a high risk environment for --</p> <p>8 for this facility to operate in. 3:07:03</p> <p>9 BY MR. SMITH:</p> <p>10 Q. Well --</p> <p>11 MR. MULDOON: Are you -- are you -- are you</p> <p>12 asking other than what's in the report? 3:07:10</p> <p>13 MR. SMITH: No, I'm -- I'm asking him</p> <p>14 specifically what his thoughts are on reasonable</p> <p>15 foreseeability and why he's deemed that it's reasonably</p> <p>16 foreseeable that this attack would've happened in the</p> <p>17 parking lot. 3:07:18</p> <p>18 MR. MULDOON: All right. Do you want him to</p> <p>19 read his report to you?</p> <p>20 MR. SMITH: No. I'm asking him right now.</p> <p>21 We're just talking. 3:07:22</p> <p>22 MR. MULDOON: Well, you're not just talking.</p> <p>23 You're asking him questions about his bases that are</p> <p>24 listed on the report, Brad. 3:07:26</p> <p>25 Do you want him to read them to you?</p>	<p style="text-align: right;">Page 141</p> <p>1 Prate knew that they were in a high risk environment. 3:08:19</p> <p>2 And he had discussions with management about</p> <p>3 the environment. And the -- the risks. They installed</p> <p>4 -- 3:08:34</p> <p>5 Q. Well, let's -- hang on just one second.</p> <p>6 Let's boil that down a little bit. 3:08:39</p> <p>7 When you say a high risk environment, are you</p> <p>8 basing that off of the reports from the OEMC or the CPD</p> <p>9 about the neighborhood? 3:08:51</p> <p>10 What are you -- what are you basing that off</p> <p>11 of?</p> <p>12 A. Well, part of what I'm using is the OEMC</p> <p>13 information. But they went to CAP Index and asked for</p> <p>14 a report and used that as their assessment tool. 3:09:14</p> <p>15 CAP Index as well as Wendy's rated this</p> <p>16 location --</p> <p>17 Q. No.</p> <p>18 A. -- as a number 3 in terms of risk. 3:09:29</p> <p>19 Q. No, no. I think you're getting that wrong.</p> <p>20 CAP Index rated the neighborhood as a number 3 --</p> <p>21 MR. MULDOON: Whoa -- 3:09:33</p> <p>22 BY MR. SMITH:</p> <p>23 Q. -- risk.</p> <p>24 MR. MULDOON: -- whoa. Let him finish his</p> <p>25 answer, and then you can argue with him. 3:09:36</p>

<p style="text-align: right;">Page 142</p> <p>1 BY MR. SMITH:</p> <p>2 Q. Go ahead.</p> <p>3 A. Well, according to the documents that I</p> <p>4 reviewed, the CAP Index report, which was completely</p> <p>5 incomplete, showed boxes where they rated the risk</p> <p>6 profile as a 3. 3:10:04</p> <p>7 At one point in that document, it -- it says</p> <p>8 that -- or they -- they characterize it as 1 to 3, and</p> <p>9 then in another box in that document, 3 to 6. 3:10:16</p> <p>10 And -- and those are their mileage indicators</p> <p>11 --</p> <p>12 Q. No, no --</p> <p>13 A. -- from the center. 3:10:21</p> <p>14 Q. Let me ask you this, though. Is that CAP</p> <p>15 Index score for a certain geographic location of the</p> <p>16 neighborhood or is that specific to that Garfield</p> <p>17 location based on your knowledge of these CAP Index</p> <p>18 scores? 3:10:32</p> <p>19 A. It's based on the address and then radiuses</p> <p>20 of 1 to 3 miles out from that address and then 3 to 6</p> <p>21 miles out from that address. And they characterize</p> <p>22 those as the highest risk, a number 3. 3:10:49</p> <p>23 Rocco Prate testified that they -- they</p> <p>24 classified it as a number 3.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 144</p> <p>1 THE WITNESS: Yes.</p> <p>2 BY MR. SMITH:</p> <p>3 Q. Okay. And so you based the reasonable</p> <p>4 foreseeability on the CAP score, the OEMC, and some</p> <p>5 other stuff. 3:12:01</p> <p>6 I'm -- in fairness, what's in your report --</p> <p>7 I'm not -- I'm not stepping around that. But you --</p> <p>8 you -- it sounds like you're saying that CAP Index</p> <p>9 report's pretty important to you. 3:12:10</p> <p>10 A. It is important, because they're using it as</p> <p>11 their -- and characterizing it as their assessment</p> <p>12 tool. And quite frankly, the -- the -- the heart of</p> <p>13 the CAP Index report was not -- was not provided here. 3:12:36</p> <p>14 The CAP Index report -- and I've used these</p> <p>15 over the years frequently. CAP Index reports give you</p> <p>16 a map, and it's -- and it's very nice. 3:12:51</p> <p>17 It comes in beautiful colors. And it starts</p> <p>18 at the -- the -- the zero point and then moves out. 3:13:00</p> <p>19 So everything that goes on in the area that's</p> <p>20 covered, not just that specific location, if -- if</p> <p>21 crime is taking place in the area that they're</p> <p>22 covering, that has an impact on your location that</p> <p>23 you're talking about. 3:13:20</p> <p>24 Those -- those folks, if they commit a crime</p> <p>25 a mile or two or three away -- it's likely that they</p>
<p style="text-align: right;">Page 143</p> <p>1 A. So you have a high risk environment. 3:11:00</p> <p>2 Q. And you understand that that's not just --</p> <p>3 I'm not -- I'm -- what I'm trying to get at here is,</p> <p>4 that a 1-to 3-mile radius CAP score. Correct? 3:11:08</p> <p>5 A. Yes.</p> <p>6 Q. So any activity that might go into that CAP</p> <p>7 score does not necessarily have to occur on the</p> <p>8 Garfield Wendy's location. Fair? 3:11:18</p> <p>9 A. Correct.</p> <p>10 Q. It could be 3 miles down the street in</p> <p>11 Chicago. Right?</p> <p>12 A. That's right. 3:11:24</p> <p>13 Q. And any 3 miles you go on the South Side in</p> <p>14 Chicago, particularly if you get into certain</p> <p>15 neighborhoods, can have high degrees of robbery, gang</p> <p>16 activity, that sort of thing. Right? 3:11:37</p> <p>17 A. Absolutely.</p> <p>18 Q. Now, on this particular location, you've</p> <p>19 never -- you testified earlier you never saw or heard</p> <p>20 of a similar type of execution style shooting in the</p> <p>21 drive-through or parking lot area of the Wendy's. 3:11:52</p> <p>22 MR. MULDOON: Objection --</p> <p>23 BY MR. SMITH:</p> <p>24 Q. Correct?</p> <p>25 MR. MULDOON: -- to the characterization. 3:11:55</p>	<p style="text-align: right;">Page 145</p> <p>1 might commit the crime at the location, at the specific</p> <p>2 location. 3:13:36</p> <p>3 Q. And where do you come up with that</p> <p>4 conclusion? How do you base that conclusion?</p> <p>5 A. On my training, experience, and education. 3:13:45</p> <p>6 Q. Okay. And how do you reason that somebody</p> <p>7 that commits a crime 3 miles down the road would likely</p> <p>8 commit a crime at that Wendy's location? 3:13:54</p> <p>9 A. Because I've seen it happen in my experience.</p> <p>10 Q. Okay. Has it happened every time in your</p> <p>11 experience, that that type of issue happens, that</p> <p>12 automatically these criminals go down the street and</p> <p>13 then they rob the Wendy's too or something happens at</p> <p>14 the Wendy's that happens 3 miles? 3:14:11</p> <p>15 A. And -- and the question was, have I seen</p> <p>16 that?</p> <p>17 Q. Yeah.</p> <p>18 A. Yes. 3:14:18</p> <p>19 Q. And let me ask you this. In the Chicago --</p> <p>20 in the South Side neighborhood, when you go 3 miles,</p> <p>21 you're pretty far away from something on -- in the</p> <p>22 South Side. Fair? 3:14:25</p> <p>23 A. Yes.</p> <p>24 Q. It's not like a country road or something.</p> <p>25 Right? It's a city block. And you go 3 miles, you're</p>

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1 pretty far distance from that location that you're at. 3:14:33
 2 A. If you look at the -- if you look at the CAP
 3 Index report, if you -- number one, if you know what --
 4 what the CAP Index report is based on, and you look at
 5 the index report and -- and their mapping shows 90
 6 percent of the area in red, not pink but red, not green
 7 but red, those neighborhoods adjoin one another. 3:15:01
 8 There's -- you mentioned it -- gang activity,
 9 for instance. There's a lot of crime that goes on in
 10 those kinds of high risk environments. 3:15:16
 11 Q. Did you --
 12 A. That's --
 13 Q. Did you look at this particular CAP Index
 14 score in these red zones that you're talking about in
 15 this case? 3:15:21
 16 MR. MULDOON: Well, I'll just state for the
 17 record it wasn't turned over.
 18 MR. SMITH: No, I'm asking him. He did it,
 19 so he can get it from his police training, experience
 20 -- 3:15:28
 21 MR. MULDOON: Or -- or --
 22 MR. SMITH: -- he can get it --
 23 MR. MULDOON: -- or it could be turned over
 24 in the course of discovery. 3:15:31
 25 MR. SMITH: Well, we turned over what we had.

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1 MR. MULDOON: Well --
 2 MR. SMITH: So.
 3 MR. MULDOON: -- maybe -- well, I'm -- that's
 4 -- that's very doubtful, Brad, and you know it. 3:15:36
 5 I'm not blaming you. I'm blaming your
 6 client.
 7 MR. SMITH: Well --
 8 MR. MULDOON: They --
 9 MR. SMITH: -- that's not true. 3:15:38
 10 MR. MULDOON: -- got the whole index, but
 11 they didn't give it --
 12 MR. SMITH: This is --
 13 MR. MULDOON: -- to you.
 14 MR. SMITH: -- my dep. Please stop. 3:15:41
 15 MR. MULDOON: Well, I'm just saying.
 16 THE WITNESS: I'm -- I'm sorry.
 17 BY MR. SMITH:
 18 Q. Did you look -- 3:15:45
 19 THE WITNESS: The question was?
 20 Q. Did you look at any sort of CAP Index map of
 21 the area in this case?
 22 A. No. 3:15:51
 23 Q. You also indicate that the -- that the burden
 24 to protect Plaintiff from reasonable foreseeable
 25 criminal activity in this case was minimal. 3:16:14

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1 And you include some things that you could do
 2 that --
 3 A. Which -- which page are we on -- 3:16:16
 4 Q. We are --
 5 A. -- please?
 6 Q. -- on page 6 of 7 of your report. Do you see
 7 that? It's --
 8 A. Okay. Yes. 3:16:44
 9 Q. Okay. And is there anything else that --
 10 besides what you've listed there that you would support
 11 that opinion or base that opinion on? 3:16:52
 12 A. Well, the -- the armed guard service that was
 13 stopped at 10:30 -- had they expanded it to take care
 14 of the overnight shift until 4 a.m., represented five
 15 and a half hours of additional coverage. 3:17:26
 16 MR. MULDOON: No, he's asking if there's
 17 anything else other than what's in the report.
 18 THE WITNESS: Other than. No. 3:17:38
 19 BY MR. SMITH:
 20 Q. Okay. And your last opinion there on that
 21 same page. It says (as read): The bases for the
 22 opinion that Wendy's failure to use reasonable care and
 23 follow the applicable security industry standards and
 24 established security practices was a proximate cause of
 25 Plaintiff's injuries include. 3:18:04

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1 And then you go on to say some things. Is
 2 there anything else that you base that opinion in other
 3 than what's listed in this document? 3:18:10
 4 A. No.
 5 Q. You believe that this attack or what you deem
 6 as Wendy's reasonable foresee -- that you -- you deem
 7 this as a reasonable foreseeable criminal attack.
 8 Fair? 3:18:56
 9 A. Yes.
 10 Q. A reasonable foreseeable military style
 11 combat style attack. Fair? 3:19:03
 12 MR. MULDOON: Objection to --
 13 THE WITNESS: No.
 14 MR. MULDOON: -- to the characterization.
 15 Go ahead. 3:19:06
 16 THE WITNESS: No. I -- I -- I -- there's no
 17 reason for me to think that that was a military style
 18 attack. 3:19:15
 19 BY MR. SMITH:
 20 Q. You believe -- were -- were the individuals
 21 shooting the gun in a -- in a shooting stance? In the
 22 video.
 23 A. Well, sort of. 3:19:26
 24 Q. Did they have one leg behind the other in a
 25 shooting stance? Is that how you're trained to shoot a

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1 handgun? 3:19:33
 2 A. Most of the time. Yes.
 3 Q. Okay. Did they appear to be aiming where
 4 they were shooting? 3:19:42
 5 A. Yes.
 6 Q. Okay. Do you believe them -- that -- that
 7 this was a reasonably foreseeable criminal predatory
 8 attack? 3:19:53
 9 MR. MULDOON: Objection as to the term
 10 predatory.
 11 But if you know what he's referring to, go
 12 ahead. 3:20:00
 13 THE WITNESS: Well, as -- as predators, as
 14 criminal predators, yeah, I -- it could be viewed as --
 15 as that. Whether or not it was a crime of opportunity
 16 is what hasn't been determined. 3:20:19
 17 BY MR. SMITH:
 18 Q. Do you believe this to be an attack, a
 19 criminal attack, that was carried out in -- in -- in a
 20 rapid nature?
 21 A. It was short. It was quick. 3:20:34
 22 Q. Was it quickly carried out?
 23 MR. MULDOON: Well --
 24 THE WITNESS: Yes.
 25 MR. MULDOON: -- he just said that. 3:20:39

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1 BY MR. SMITH:
 2 Q. I'm sorry. What was your answer, sir?
 3 A. Yes.
 4 Q. Was it something that happened -- I'm going
 5 to strike that. 3:20:56
 6 Do you believe that the shooters caused these
 7 bullets to enter the victims' bodies?
 8 A. Yes. 3:21:27
 9 Q. Excuse -- can you say that again, sir?
 10 A. Yes. They were shot. 3:21:30
 11 Q. Do you believe the shooters proximally caused
 12 these bullets to enter the individuals' bodies?
 13 A. Yes. 3:21:42
 14 Q. Okay. Do you know how many times each
 15 individual was shot?
 16 A. I believe there was a reference in the police
 17 report that there were 16 shell casings recovered. 3:22:08
 18 Q. And so you take that to be at least they were
 19 shot at 16 times.
 20 A. Their firearms discharged 16 times. 3:22:20
 21 Q. Okay. Do you -- you described the applicable
 22 standards and established security practices to prevent
 23 the criminal activity. 3:22:43
 24 What are those applicable --
 25 A. Wait --

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1 Q. -- standards --
 2 A. -- wait --
 3 Q. -- and --
 4 A. -- a second. Where -- 3:22:45
 5 MR. MULDOON: Yeah --
 6 THE WITNESS: -- are you?
 7 MR. MULDOON: -- you're jumping around.
 8 Where are you --
 9 BY MR. SMITH:
 10 Q. I'm sorry. This is on the last page where
 11 your signature line is. 3:22:49
 12 A. Okay.
 13 Q. You described there that (as read): Wendy's
 14 failed to use reasonable care, follow the applicable
 15 standards and established security practices to prevent
 16 the criminal activity that resulted in Plaintiff's
 17 injuries. 3:23:03
 18 What are the applicable standards and
 19 established security practices that you're talking
 20 about?
 21 A. Conducting a -- a -- a -- a proper risk
 22 assessment and then taking actions to mitigate your
 23 findings. 3:23:30
 24 Q. And to do that, you would deem, from a legal
 25 perspective, that this criminal attack, this military

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1 style criminal attack, was reasonable foreseeable. 3:23:48
 2 MR. MULDOON: Well, I'm going to object. He
 3 already testified he didn't think it was a military
 4 style attack. And I'm -- 3:23:51
 5 MR. SMITH: Okay.
 6 MR. MULDOON: -- going to object to that
 7 characterization.
 8 BY MR. SMITH:
 9 Q. Go ahead, sir. 3:23:55
 10 A. Well, again, there's no reason to believe
 11 that -- that this was a military style attack. And
 12 there's plenty of evidence that the security program
 13 did not follow the standards and practices to prevent
 14 or deter something like this. 3:24:34
 15 Q. Let me ask you again. This particular
 16 attack. Do you believe it to be a -- a -- under the
 17 legal definition a reasonably foreseeable criminal
 18 attack? 3:24:51
 19 A. Yes.
 20 Q. And you base that on the CAP score for the
 21 area.
 22 A. The CAP score. 3:25:01
 23 Q. All the things discussed in your report.
 24 A. All the things in my report. Yes. 3:25:05
 25 Q. Okay. And you cannot base that on any prior

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<p>1 similar styled shootings at that Wendy's. Fair? 3:25:13</p> <p>2 A. There were no reported shootings at that</p> <p>3 Wendy's to the police department.</p> <p>4 Q. Okay. And so you have no basis to say --</p> <p>5 that's not one of your bases here. Correct? 3:25:28</p> <p>6 A. Correct.</p> <p>7 Q. Are there any laws in that area that require</p> <p>8 the Wendy's to provide the measures that you're</p> <p>9 recommending here? 3:25:43</p> <p>10 A. Not that I'm aware of.</p> <p>11 Q. Okay. Other than what's stated in Exhibit 1</p> <p>12 here, your report that's contained in Exhibit 1, do you</p> <p>13 have any other opinions, conclusions outside of those</p> <p>14 that are stated in that report? 3:25:59</p> <p>15 A. No.</p> <p>16 Q. Have we --</p> <p>17 MR. MULDOON: Wait, wait, wait.</p> <p>18 Could you read that question and answer back,</p> <p>19 please? I'm sorry. 3:26:05</p> <p>20 (Recording replayed)</p> <p>21 MR. MULDOON: Well, I'll object. He's given</p> <p>22 many opinions and conclusions during the course of his</p> <p>23 deposition. 3:26:29</p> <p>24 MR. SMITH: Okay. That's fair.</p> <p>25 BY MR. SMITH:</p>	<p>1 just say I'm looking at these transcripts and this</p> <p>2 stuff and I'm just coming to conclusions? 3:28:10</p> <p>3 A. Well, I -- when I think through -- when I</p> <p>4 read and -- and look at the evidence, the -- that's</p> <p>5 reasoning. When -- when Wendy's is informed that</p> <p>6 they're operating and they know they're operating in a</p> <p>7 high risk environment and they don't take reasonable</p> <p>8 steps to mitigate those risks, that's much like two</p> <p>9 plus two equals four. 3:29:02</p> <p>10 And -- and -- and that's -- that's the</p> <p>11 reasoning that goes into it. There's just a lot of</p> <p>12 information here in terms of the bases and the</p> <p>13 activities by Wendy's in regard to their security</p> <p>14 program that don't add up when you look at the</p> <p>15 standards and the established practices. 3:29:32</p> <p>16 Q. Do you believe -- do you base the fact that</p> <p>17 you're concluding that it's a high risk environment on</p> <p>18 the CAP Index score solely? 3:29:43</p> <p>19 Or what do you base that on?</p> <p>20 A. No. No.</p> <p>21 Q. Tell me.</p> <p>22 A. The CAP -- the CAP Index score -- I -- I'm</p> <p>23 basing it on the fact that they used the CAP Index</p> <p>24 store -- score as their assessment tool, which falls</p> <p>25 far short of a -- of an assessment. 3:30:04</p>
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<p>1 Q. Outside of your report that's contained in</p> <p>2 Exhibit 1 and the testimony you've given today, are</p> <p>3 there any other opinions or conclusions that you have</p> <p>4 -- we have not talked about or saw in your report? 3:26:44</p> <p>5 A. Not that I can think of at the time -- at</p> <p>6 this time. No.</p> <p>7 Q. Okay. Have we discussed all your bases today</p> <p>8 and in your report? 3:26:59</p> <p>9 A. Yes. I believe so.</p> <p>10 Q. And just, if you can for me, describe how in</p> <p>11 your bases as to this -- when you get to opining that</p> <p>12 this is a reasonable -- reasonably foreseeable criminal</p> <p>13 act, describe for me how you get from your bases in</p> <p>14 your report, ones you've described today to that</p> <p>15 conclusion opinion. 3:27:27</p> <p>16 How do you reason that out as an expert?</p> <p>17 A. By reviewing the materials and the -- the --</p> <p>18 the evidence, the depositions, and -- and just</p> <p>19 generally the materials that I was provided to read. 3:27:49</p> <p>20 That's how I got to those opinions.</p> <p>21 Q. But how do you get from Point A to Point B?</p> <p>22 Did you reason those in any way, saying this is --</p> <p>23 these are factors I look at? 3:28:00</p> <p>24 This is how I reasoned to this conclusion?</p> <p>25 Did you do that with any of your opinions? Or did you</p>	<p>1 It's -- it's just not an assessment. It's a</p> <p>2 part of an assessment. And -- and it puts them on</p> <p>3 notice that they're operating in a high risk</p> <p>4 environment. 3:30:16</p> <p>5 Q. Within 3 to 4 miles. Fair?</p> <p>6 A. With?</p> <p>7 Q. Within --</p> <p>8 A. I'm --</p> <p>9 Q. -- 3- to 4-mile -- 3:30:20</p> <p>10 A. No --</p> <p>11 Q. -- radius.</p> <p>12 A. -- within 1 --</p> <p>13 Q. Fair?</p> <p>14 A. -- to -- within 1 to 6 miles. 3:30:24</p> <p>15 Q. Within 1- to 6-mile radius. Fair?</p> <p>16 A. Yes. Yes. 3:30:28</p> <p>17 Q. Okay. What else do you base on that it's a</p> <p>18 high risk environment?</p> <p>19 MR. MULDOON: Other than what's in the</p> <p>20 report? 3:30:34</p> <p>21 BY MR. SMITH:</p> <p>22 Q. Other than what's in the report.</p> <p>23 A. I think what's in the report is -- is the</p> <p>24 rest of it. I can't think of anything else right now</p> <p>25 to -- that -- that's missing. 3:30:47</p>

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1 Q. Okay. What did you do to prepare for today?
 2 A. I reread the file and my report specifically
 3 along with, you know, deposition material and some of
 4 the discovery. 3:31:10
 5 Q. Okay. Anything else?
 6 A. Not that I can think of. 3:31:20
 7 Q. Did you meet with Mr. Muldoon?
 8 A. Today. Yes.
 9 Q. What'd you guys go over? 3:31:25
 10 A. The report.
 11 Q. Okay. Did he ask you any questions that I
 12 haven't asked you today? 3:31:35
 13 A. No. No, not that I can think of.
 14 Q. Okay. All right. I don't think I have any
 15 further questions for you at this time. 3:31:53
 16 MR. MULDOON: Just some quick follow-up.
 17 CROSS EXAMINATION
 18 BY MR. MULDOON:
 19 Q. Just so we're clear. Exhibit No. 1. More
 20 specifically, the report contained in Exhibit No. 1. 3:32:04
 21 That report contains the opinions that you've
 22 reached in this case and the bases for all those
 23 opinions. Correct?
 24 A. Correct. 3:32:19
 25 Q. And you also gave some other opinions and

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1 other bases today in your deposition. Correct?
 2 A. Yes. 3:32:24
 3 Q. Okay. Earlier you were asked about -- a
 4 question about reasonable -- something -- what was
 5 reasonable, and you started talking about Fort Knox. 3:32:33
 6 Okay. Do you remember that --
 7 A. Yes.
 8 Q. -- earlier? Were -- were you talking about
 9 -- during that answer, were you talking about
 10 reasonable care? 3:32:42
 11 Like what would -- what would constitute
 12 reasonable care?
 13 A. Yes.
 14 Q. It -- it wouldn't be Fort Knox. It would be
 15 what you outlined in your report. 3:32:51
 16 A. Correct.
 17 Q. And --
 18 MR. SMITH: Just objection --
 19 BY MR. MULDOON:
 20 Q. -- you testified --
 21 MR. SMITH: -- asked and --
 22 BY MR. MULDOON:
 23 Q. -- here today --
 24 MR. SMITH: -- answered.
 25 BY MR. MULDOON:

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1 Q. -- correct? 3:32:54
 2 A. Yes.
 3 Q. Okay. As far as reasonable foreseeability,
 4 again, the basis for that's in your report when you
 5 testified today. Correct? 3:33:05
 6 A. Yes.
 7 Q. The reasonable foresee- -- foreseeability
 8 would be what one would -- should reasonably expect,
 9 what -- as you said, what they knew or should know. 3:33:13
 10 A. Yes.
 11 Q. Okay. Okay. You testified earlier about a
 12 incident in the drive-through line on the night of --
 13 in the morning of the occurrence, where there was
 14 honking and arguing and cursing. 3:33:37
 15 A. Correct.
 16 Q. And I believe you testified that that
 17 would've brought the security guard, if he wasn't there
 18 in the drive-through line -- it would've brought him
 19 over there. Correct? 3:33:46
 20 A. Yes.
 21 Q. And based upon -- and again, a properly
 22 trained security guard. How long would he have stayed
 23 in that area, say, between the menu board and the
 24 drive-up window, the cashier window, after that
 25 dispute? 3:34:06

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1 A. Well, he would've stayed there to monitor the
 2 situation until those people were off the property.
 3 Q. Okay. And that would've put him in that area
 4 between the menu board and the drive-through window
 5 when those two gunmen approached from the -- approached
 6 onto the parking lot. Correct? 3:34:29
 7 A. Correct.
 8 Q. Okay. When you were -- when you were asking
 9 question -- asked questions about the CAP Index report,
 10 you identified it as one of the -- one of the important
 11 factors that you looked at. Correct? 3:35:16
 12 A. Yes.
 13 Q. And is that because that's the only
 14 documentation that Wendy's looked at?
 15 A. Yes. Apparently. 3:35:23
 16 Q. You were -- you were asked about whether or
 17 not -- you -- you were asked about what you -- strike
 18 that.
 19 You gave opinions to what you thought Wendy's
 20 should've done had they -- had they used reasonable
 21 care, certain measure they should've taken in -- in --
 22 in -- had they used reasonable care. Correct? 3:36:04
 23 A. Yes.
 24 Q. And those measures that would've constituted
 25 reasonable care, in your opinion, again, based on your

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1 experience, knowledge, training, and things like that.
 2 **Correct?** 3:36:17
 3 A. Yes.
 4 **Q. The standards and the established practices.**
 5 **Correct?**
 6 A. Yes. 3:36:20
 7 **Q. Okay. I think you were asked if you knew if**
 8 **there were any specific laws that related to the -- to**
 9 **those measures. Correct?** 3:36:31
 10 A. Correct.
 11 **Q. And what did you mean when you said you**
 12 **didn't know of any specific laws that related to -- to**
 13 **those measures?** 3:36:37
 14 A. Well, I haven't done the research to -- to
 15 determine that -- that there's a law that says you need
 16 to have a -- a security guard on the overnight shift,
 17 for instance. 3:36:49
 18 **Q. Okay. So there -- you're not aware of any**
 19 **statutes that say that.**
 20 A. That's correct. 3:36:51
 21 **Q. But you -- you're aware that under the law, a**
 22 **-- a -- a -- a -- a -- a -- a business has to use**
 23 **reasonable care.**
 24 A. Yes. 3:36:58
 25 **Q. Okay.**

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1 MR. MULDOON: Okay. That's all I have. 3:37:14
 2 REDIRECT EXAMINATION
 3 BY MR. SMITH:
 4 **Q. As for the standard of reason -- reasonable**
 5 **foreseeability of a -- of a criminal attack, if that's**
 6 **the legal standard, are you able to opine on that**
 7 **standard?** 3:37:33
 8 A. As a legal standard?
 9 **Q. Yes.**
 10 MR. MULDOON: I'll --
 11 THE WITNESS: Yeah.
 12 MR. MULDOON: -- object. 3:37:43
 13 THE WITNESS: I -- I -- I think so. Yes.
 14 MR. SMITH: Okay. I don't have anything
 15 further for you.
 16 MR. MULDOON: Okay. 3:37:51
 17 MR. SMITH: Waive signature or reserve?
 18 MR. MULDOON: You do that in federal court?
 19 MR. SMITH: Yeah. 3:37:55
 20 MR. MULDOON: You do? Okay. We'll reserve
 21 signature.
 22 MR. SMITH: Okay.
 23 THE RECORDER: Going off record at 4:56 p.m.
 24 (Off the record)
 25

42 (Pages 162 to 163)

1 CERTIFICATION

2 I, Allyson Pritchard, do hereby certify that the
3 foregoing transcript of said deposition is a true,
4 complete and correct report of the entire testimony so
5 given by said witness, together with such other matters
6 and things as counsel for the parties present at the
7 taking of said deposition desire to have appear of
8 record.

9 I further certify that on March 30, 2022 said
10 witness, S. RONALD HAURI was first duly sworn to
11 testify to the truth, the whole truth and nothing but
12 the truth in the cause aforesaid; that the testimony
13 then was recorded by audio/visual recording device, by
14 me in the presence of said witness and thereafter
15 transcribed into typewriting under my direction and
16 control.

17 I further certify that I am not counsel for,
18 nor attorney for any of the parties to the aforesaid
19 cause, nor am I related to any of the parties to the
20 aforesaid cause, nor am I interested in any manner in
21 the said cause or in its outcome.

22

23

24

25

1 I further certify that the signature to the
2 foregoing deposition was reserved by the witness.

3 IN TESTIMONY WHEREOF: I have hereunto set
4 my hand and affixed my notarial seal:

5

6

7 Allyson Pritchard

8 April 12, 2022

9

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